

Panaji, 4th August, 2022 (Savana 13, 1944)

SERIES II No. 18

OFFICIAL GAZETTE

GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note:- There are four Extraordinary issues to the Official Gazette, Series II No. 17 dated 28-07-2022 as follows:—

- (1) Extraordinary dated 28-07-2022 from pages 1709 to 1714 regarding Notification from Goa State Election Commission.
- (2) Extraordinary (No. 2) dated 29-07-2022 from pages 1715 to 1720 regarding Notification

from Department of Panchayati Raj and Community Development.

- (3) Extraordinary (No. 3) dated 30-07-2022 from pages 1721 to 1722 regarding Corrigendums from Goa State Election Commission.
- (4) Extraordinary (No. 4) dated 02-08-2022 from pages 1723 to 1736 regarding Circulars from Department of Finance.

GOVERNMENT OF GOA

Department of Civil Supplies and Consumer Affairs

Order

No. DCS/ADCS/CC/Appoint/99/2022-23/1469

In exercise of powers conferred under the Consumer Protection Act, 2019 (35 of 2019) (hereinafter referred to as the Act) and Consumer Protection (Qualification for Appointment, Method of Recruitment, Procedure of Appointment, Term of Office, Resignation and Removal of the President and Members of the State Commission and District and Members of the State Commission and District Commission) Rules, 2020 the State Government is pleased to appoint Adv. Varsha V. Wadiker alias Mrs. Varsha R. Bale as the Member of the Goa State Consumer Disputes Redressal Commission, Panaji-Goa on full-time basis w.e.f. 01-08-2022 (b.n.) on the recommendation of the Selection Committee.

1. A Member of the State Commission shall hold the office for a term of four years or up to the age of 65 years whichever is earlier as per the provisions of the Consumer Protection Act, 2019.
2. A Member of the State Commission shall receive a pay equivalent to the pay at minimum of the scale of pay of an Additional

Secretary of the State Government and other allowances as are admissible to such officer.

3. The pay of a person appointed as Member, who is in receipt of any pension, shall be reduced by the gross amount of pension drawn by him.
4. The expenditure on account of his salary shall be debitable to the Budget Head Demand No. 70, "3456—Civil Supplies; 001—Director and Administration; 04—Consumer Disputes Redressal Commission (Non-Plan); 01—Salaries".

By order and in the name of the Governor of Goa.

Gopal A. Parsekar, Director & ex officio Joint Secretary (Civil Supplies and Consumer Affairs).

Panaji, 1st August, 2022.



Department of Co-operation Office of the Registrar of Co-operative Societies

Order

No. 19/33/94/TS/RCS (Vol.I)/1338

- Read: 1) Letter No. 1/RO/Elc/BOD/GSCMPO/851 dated 20-06-2022;
- 2) Proceedings of election to the office bearers dated 18-07-2022.

Whereas, elections to the new Board of Directors of the Goa State Co-operative Milk Producers Union Ltd., Curti, Ponda, Goa (hereafter referred to as 'Goa Dairy') were held in accordance with provisions of Section 66 of the Goa Co-operative Societies Act, 2001 read with the Goa Co-operative Societies Rules, 2003 and the results were declared in Form 'ELECTION 17' on 20-06-2022.

And whereas, the elections to the Office bearers i.e. Chairman of the Goa Dairy was held on 18-07-2022 in accordance with Section 66(6) of the Goa Co-operative Societies Act, 2001.

And whereas, the Byelaws of Goa Dairy provides for a Board of Directors of 15 members, out of which 12 are elected, 1 Nominee of Registrar of Co-operative Societies, 1 Nominee of National Dairy Development Board and Managing Director of Goa State Co-operative Milk Producer's Union Ltd.

Now, therefore, I, the undersigned Registrar of Co-operative Societies, Government of Goa, in accordance with Clause 19.1.2 of the Byelaws of Goa Dairy, do hereby nominate the Assistant Registrar of Co-operative Societies incharge of Ponda Zone, having office at Sahakar Bhavan, Curti, Ponda, Goa as a member (RCS Nominee) on the Board of Directors of the Goa State Co-operative Milk Producers Union Ltd., Curti, Ponda, Goa with immediate effect.

He/she shall ensure that the interest of the Government of Goa and the Goa Dairy is protected while functioning as nominated Director on the Board of the Goa Dairy.

This order shall come into force with immediate effect.

Vishant S. N. Gaunekar, Registrar (Co-operative Societies).

Panaji, 25th July, 2022.

Order

No. 3-1-Ts-II/SZ/2017/RCS Vol. I/1365

- Read: 1. Notification No. 3/3/Urban Credit/TS II/PZ/2017/RCS/Suppl. 5306 dated 10-02-2022;
2. Office Memorandum No. 3/6/Urban Credit/TS-II/PZ/2017/RCS/833 dated 17-06-2020;
3. This Office Order No. 3/1/Urban Credit/TS-II/SZ/2017/Vol. I dated 17-05-2021;
4. Letter No. SUCCS/22-23/ARCS/247 dated 19-07-2022.

Whereas, vide Order at reference No. 3 above issued by the Registrar of Co-operative Societies in exercise of the powers conferred upon him by Notification at reference No. 1 above issued by the Government by exercising the powers under Section 126A of the Goa Co-operative Societies Act, 2001 (Goa Act No. 36 of 2001), the General Manager of the Sahakar Urban Co-operative Credit Society Ltd., Vasco-Da-Gama was authorized to act as Recovery Officer/Sale Officer in relation to recovery of debts and to attach and sell the property of defaulters or to execute any decree by attachment and sale of property and execution of all recovery orders of decree holder viz. The Sahakar Urban Co-operative Credit Society Ltd; Vasco-Da-Gama passed by the Asstt. Registrar of Co-operative Societies, ABN/EXE or the Nominee of Registrar, as provided under Section 91D of the said Act.

And whereas, said appointment was initially for a period of one year from 17-05-2021 to 16-05-2022.

And whereas, vide letter dated 19-07-2022 at reference No. 4 above, Chairman of the administrative committee of The Sahakar Urban Co-operative Credit Society Ltd., Vasco-Da-Gama, has requested for extending said authorization for further period of one year.

Now, therefore, in exercise of the powers conferred upon undersigned under Section 123 B read with Notification dated 10-02-2020 at reference No.1 above, the appointment and authorization of said Recovery Officer/Sale Officer is hereby further extended for a period of one year with retrospective effect from 17-05-2022 to 16-05-2023.

All the terms and conditions mentioned in the Order referred to at Sr. No. 3 above shall continue to apply.

The undersigned reserves the right to withdraw this Order at any stage without assigning any reasons.

Given under the Seal of this Office.

Vishant S. N. Gaunekar, Registrar of Co-operative Societies & ex officio Joint Secretary (Co-operation).

Panaji, 27th July, 2022.

Order

No. 50/3/418/SSCHS/BOD/Elec/SZ/RCS/21/1366

- Read: Letter No. 17/109/88/ARSZ/HSG/792 dated 27-06-2022 received from Assistant Registrar of Co-operative Societies, South Zone,

Margao, Goa to grant exemption from Section 59(4) of the Goa Co-operative Societies Act, 2001 to Shripad Shreevallabh Co-operative Housing Society Ltd. (Reg. No. HSG (a)-209/GOA dated 01-12-1987), Camarshete, Curtorim, Salcete, Goa.

Whereas, the Society Shripad Shreevallabh Co-operative Housing Society Ltd., Camarshete, Curtorim, Salcete, Goa was registered on 01-12-1987 under registration No. HSG(a)-209/GOA and is having a total membership of 38 as on 31-03-2021 (hereafter referred as "said Society").

And whereas, the elections to the Board of Director of said Society were held by ARCS/AEO, South Zone, Margao for the term 2022-2027 for filling up of total 07 posts and the election result was declared on 21-03-2022 in Form "Election-9" i.e. result of uncontested election thereby returning candidates to the 05 posts i.e. 04 from General Category and 01 from Women Category, while 02 posts i.e. 01 from Women Category and 01 from SC/ST Category remained vacant.

And whereas, the Assistant Registrar of Co-operative Societies, South Zone, Margao vide letter referred above requested to grant exemption from Section 59 (4) of the Goa Co-operative Societies Act, 2001 to said Society for filling up these 2 vacant posts. Said proposal was examined in terms of Circular No. 15-11-2017/RCS/2470 dated 01-08-2019 and was found to be eligible for such exemption.

In view of above facts and in exercise of the powers vested under Section 126A of the Goa Co-operative Societies Act, 2001 (Goa Act No. 36 of 2001), the Government of Goa is pleased to exempt said Society from the applicability of provisions of sub-section (4) of Section 59 for the term 2022-2027.

By order and in the name of the Governor of Goa.

Vishant S. N. Gaunekar, Registrar of Co-operative Societies & ex officio Joint Secretary (Co-operation).

Panaji, 28th July, 2022.

Order

No. 11/1/Kharede Vikri/TSII/QZ/2019/RCS/1377

Read: 1) Order No. 48-8-2001-TS-RCS/III/311 dated 21-04-2017.

2) Circular No. 6-13-81/EST/RCS/Part V/5833 dated 06-03-2020;

3) Letter No. ARCS/QZ/RS nominee/2012/153 dated 18-06-2020.

4) Order No. 11/1/Kharede Vikri/TS-II/ QZ/ /RCS/1446 dated 09-08-2020.

5) Letter No. AD/B/078/22-23 dated 30-04-2022.

Whereas, vide order at reference No. 1 above issued by the Registrar of Co-operative Societies u/s. 86 (1) of the Goa Co-operative Societies Act, 2001 read with Rule 116 (1) of the Goa Co-operative Societies Rules, 2003, Adv. Dilip S. Gaonkar, A-306, 3rd floor, Pereira Plaza, Opposite to Hospicio Hospital, Margao, Goa was appointed as the Registrars Nominee for deciding the disputes arising in any of the Co-operative Societies referred to him by the Registrars of Co-operative Societies/Asst. Registrars of Co-operative Societies.

And whereas, vide letter at reference No. 3 above, the Asst. Registrar of Co-operative Societies Quepem Zone, Quepem-Goa has submitted request of Adarsh Krishi Sahakari Kharedi Vikri Saustha Maryadit (Reg. No. 6-APS-(a)-1 South Goa/93) for appointment of Adv. Dilip S. Gaonkar as dedicated Registrar's Nominee for their Society. The Registrar of Co-operative Societies, in exercise of power conferred u/s. 123 (B) of the Goa Co-operative Societies Act, 2001 read with Circular at ref. No. 2 above, appointed Adv. Dilip S. Gaonkar as the dedicated Registrar's Nominee authorizing him to entertain and decide all the disputes submitted to him by the said Society, without referring to this office. The initial period of authorization was for 1 year from 04-08-2020 to 03-08-2021.

And whereas, the Adarsh Krishi Sahakari Kharedi Vikri Saustha Maryadit vide letter at ref. No. 5 above has requested for extension of said authorization for a further period of one year from 04-08-2021 to 03-08-2022.

Now therefore, in exercise of powers conferred under Section 123B of the Goa Co-operative Societies Act, 2001, I, the Registrar of Co-operative Societies hereby extend the authorization of Adv. Dilip S. Gaonkar as dedicated Registrar's Nominee for the Adarsh Krishi Sahakari Kharedi Vikri Saustha Maryadit for a further period of 1 year with retrospective effect from 04-08-2021 to 03-08-2022.

The other terms and conditions mentioned in the Order referred to at Sr. No. 4 above shall continue to remain in force.

The Registrar reserves the right to withdraw this Order at any stage without assigning any reason thereof.

Given under the seal of this office.

Vishant. S. N. Gaunekar, Registrar of Co-operative Societies & ex officio Joint Secretary (Co-operation),

Panaji, 28th July, 2022.

Sub.- Declaration of Results of Election in respect of the Board of Directors of the Goa State Co-operative Milk Producers Union Ltd., Curti, Ponda-Goa.

FORM "ELECTION-17"

[See Rule 105(1)]

**Form of declaration of result and publication of names of
Members of the Board of Directors
(Result of Election)**

Election to the Board of Director of the "Goa State Co-operative Milk Producers Union Ltd., Curti, Ponda-Goa, for the period 2022-2027.

Sr. No.	Name of the Candidate	Representative of	Number of valid votes polled by the Candidate
1	2	3	4
01.	Arolkar Nauso Mahadev	Shree Bhagwati Sapteshwar Sahakari Dudh Utpadak Vyavsayik Saunstha Ltd., Mandrem, Pernem-Goa	45
02.	Bhatikar Chandrakant Siddhu	Shree Mallikarjun Sahakari Dudh Vyavsayik Saunstha Ltd., Bhati, Sanguem-Goa	33
03.	Desai Ajay Laxmikant	Bhandiwade Sahakari Dudh Vyavsayik Saunstha Maryadit, Bandiwade, Ponda-Goa	49
04.	Desai Anup Kalidas	Priol Gosavardhan Sahakari Dudh Vyavsayik Saunstha Maryadit, Priol-Goa	58
05.	Desai Bhagirathi Datta	Shree Shantadurga Mhahila Sahakari Dudh Utpadak Saunstha Maryadit, Advalpal, Bicholim, Goa	43
06.	Desai Dhananjay Nandaba	Shree Kamdhenu Dugdh Utpadak Sahakari Saustha Maryadit, Advoi, Valpoi, Sattari, Goa	35
07.	Desai Sandip Ganpat	Jai Bhawani Sahakari Dudh Vyavsayik Saunstha Ltd., Sancorda, Dharbandora-Goa	45
08.	Dessai Baburao Shrikant Fatto	Kakoda Sahakari Dudh Utpadak Vyavsayik Saunstha Maryadit, Bansai, Kakoda, Goa	67
09.	Dessai Vithoba Datta	Shantadurga Sahakari Dudh Vyavsayik Saunstha Ltd., Cuncolim Bazar, Cuncolim, Salcete-Goa	78
10.	Dhauskar Sudhir Uttam	Shree Sateri Dudh Utpadak Sahakari Saunstha Maryadit, Ibrampur, Pedne-Goa	37
11.	Faldessai Dayanand Fachad	Mahadev Sahakari Dudh Vyavsayik Saunstha Maryadit, Pirla, Quepem-Goa	53

1	2	3	4
12.	Faldessai Rajesh Krishna	Somnath Sahakari Dugdh Utpadak Vyavsayik Saunstha Maryadit, Adnem, Quepem-Goa	79
13.	Faldessai Ravindra Uttam	Mallikarjun Sahakari Dudh Utpadak Vyavsayik, Saunstha Maryadit, Kavre, Quepem-Goa	43
14.	Falo Babu Deu	Shree Paravdeshwar Dudh Utpadak Sahakari Saunstha Maryadit, Keri, Sattari-Goa	60
15.	Fernandes Manguesh Caitano	Seraulim Sahakari Dudh Vyavasayik Saustha Maryadit, Seraulim, Salcete-Goa	09
16.	Furtado Aselmo	Orlim Dudh Utpadak Sahakari Saunstha Maryadit, Orlim, Salcete-Goa	39
17.	Gaonkar Vijaykant Vithoba	Shree Mahamaya Dudh Utpadak Sahakari Saunstha, Maryadit, Jackem, Netravalim, Sanguem, Goa	75
18.	Jalmi Prakash Bhiku	Devanand Vijaya Sahakari Dugdh Vyavsayik Society, Kunkaly, Ponda-Goa	53
19.	Malik Nilesh Prabhakar	Nandini Sahakari Dugdh Utpadak Saunstha Maryadit, Kasarpal, Ladfe-Goa	38
20.	Naik Govind Ladu	Pirna Sahakari Dugdh Vyavasayik Saustha Ltd., Pima, Bardez-Goa	41
21.	Naik Shrikant Pandurang	Pragati Sahakari Dudh Utpadak Saunstha Maryadit, Kapileshwari, Kavale, Ponda-Goa	54
22.	Parab Adinath Anant	Shree Bhumika Sahakari Dudh Utpadak Saunstha Maryadit, Sal Assnora, Bicholim-Goa	39
23.	Parab Gurudas Keshav	Menkurem Dudh Utpadak Sahakari Saunstha Maryadit, Menkurem, Bicholim-Goa	70
24.	Parab Gurudas Shantaram	Abhinav Sahakari Dudh Vyavasayik Saunstha Maryadit, Bandharwada, Bicholim-Goa	41
25.	Parab Madan Krishna	Shri Mauli Dudh Utpadak Sahakari Saustha Maryadit, Virnoda-Goa	46
26.	Parab Vaibhav Mohan	Amthane Sahakari Dudh Utpadak Saunstha Maryadit, Amthane, Bicholim-Goa	38
27.	Patil Sandesh Kanta	Shree Ranganath Sateri Sahakari Dudh Saunstha Ltd., Vaghon, Dabal, Sanguem-Goa	37
28.	Pednekar Shivanand Bablo	Shree Rudreshwar Dudh Utpadak Sahakari Society Maryadit, Harvalem-Goa	39
29.	Prabhu Uday Anand	Somnath Mahalaxmi Sahakari Dudh Utpadak Saunstha Maryadit, Kodar, Ponda-Goa	63

1	2	3	4
30.	Prabhu Vikas Vishwanath	Shree Gananath Sahakari Dudh Vyavsayik Sauntha Maryadit Nirankal, Ponda-Goa	54
31.	Prabhugaonkar Nitin Vishwanath	Tribhuvan Sahakari Dudh Vyavasayik Sauntha Maryadit, Mardol-Goa	62
32.	Sahakari Madhav Atmaram	Kapila Sahakari Dudh Utpadak Vyavasayik Sauntha Maryadit, Curti, Ponda-Goa	69
33.	Sardesai Deepaji Hirbarao Rane	Kumbharkhan Dudh Utpadak Sahakari Sauntha Maryadit, Kumbharkhan, Pissurlem, Sattari-Goa	34
34.	Sawant Dnyaneshwar Kushta	Shree Shampurush Dudh Utpadak Sahakari Sauntha Maryadit, Sarvan, Bicholim-Goa	28
35.	Shirodkar Durgesh Madhukar	Shree Sateri Sahakari Dudh Vyavsayik Sauntha Maryadit, Santemol Raia, Salcete-Goa	42
36.	Siddhaye Pramod Vasudev	Shree Nanoda Dudgdh Utpadak Sahakari Sauntha Maryadit, Nanoda, Bicholim-Goa	37
37.	Sinari Ulhas Pandurang	Janata Utkarsh Sahakari Dudh Vyavasayik Society Ltd., Amona, Marcela-Goa	80
38.	Sukthankar Vishwas Sitaram	Shree Shantadurga Sahakari Dudh Utpadak Vyavasayik Sauntha Maryadit, Kumbharjuva, Marcel-Goa	24
		Total No. valid votes	159
		Total No. of invalid votes	07
		Total No. of Tendered votes	-

Given under my hand and seal of this office on 20-06-2022.

Raju Magdum, Returning Officer for Election to the BOD's of the Goa State Co-operative Milk Producers Union Ltd., Curti, Ponda-Goa.

Ponda, 20th June, 2022.

I, declare that the following 12 Directors have been duly elected on the Board of Director's of the Goa State Co-operative Milk Producers Union Ltd., Curti, Ponda-Goa, for the term 2022-2027:

Name/s	Address/ses	
1) Sinari Ulhas Pandurang	Janata Utkarsh Sahakari Dudh Vyavasayik Society Ltd., Amona, Marcela-Goa	80
2) Faldessai Rajesh Krishna	Somnath Sahakari Dudgdh Utpadak Vyavsayik Sauntha Maryadit, Adnem, Quepem-Goa	79
3) Dessai Vithoba Datta	Shantadurga Sahakari Dudh Vyavasaik Sauntha Ltd., Cuncolim Bazar, Cuncolim, Salcete-Goa	78

Name/s	Address/ses	
4) Gaonkar Vijaykant Vithoba	Shree Mahamaya Dudh Utapadak Sahakari Saunstha Maryadit, Jackem, Netravalim, Sanguem-Goa	75
5) Parab Gurudas Keshav	Menkurem Dudh Utapadak Sahakari Saunstha Maryadit, Menkurem, Bicholim-Goa	70
6) Sahakari Madhav Atmaram	Kapila Sahakari Dudh Utpadak Vyavasayik Saunstha Maryadit, Curti, Ponda-Goa	69
7) Dessai Baburao Shrikant Fatto	Kakoda Sahakari Dudh Utpadak Vyavasayik Saunstha Maryadit, Bansai, Kakoda-Goa	67
8) Prabhu Uday Anand	Somnath Mahalaxmi Sahakari Dudh Utpadak Saunstha Maryadit, Kodar, Ponda-Goa	63
9) Prabhugaonkar Nitin Vishwanath	Tribhuvan Sahakari Dudh Vyavasayik Saunstha Maryadit, Mardol-Goa	62
10) Falo Babu Deu	Shree Paravdeswar Dudh Utpadak Sahakari Saunstha Maryadit, Keri, Sattari-Goa	60
11) Desai Anup Kalidas	Priol Gosavardhan Sahakari Dudh Vyavasayik Saunstha Maryadit, Priol-Goa	58
12) Naik Shrikant Pandurang	Pragati Sahakari Dudh Utpadak Saunstha Maryadit, Kapileshwari, Kavale, Ponda-Goa	54

Given under my hand and seal of this office on 20-06-2022.

Raju Magdum, Returning Officer for Elections to the BOD's of the Goa State Co-operative Milk Producers Union Ltd., Curti, Ponda-Goa.

Ponda, 20th June, 2022.

FORM – IV

In pursuance of power conferred by clause sub-section 6 of Section 66 of the Goa Co-operative Societies Act, 2001, declare the election of office bearers as follows:

Election of office bearer of the "Goa State Co-operative Milk Producers Union Ltd., Curti, Ponda-Goa".

Sr. No.	Name of the Candidate	Address of Candidate	For the post of
01.	Shri Rajesh K. Fal Dessai	Somnath Sahakari Dudh Utpadak Vyavsayik Saunstha Maryadit, Adnem, Quepem-Goa	Chairman.

Sd/- Signature of the Presiding Officer.

Ponda, 18th July, 2022.

Office of the Asst. Registrar of Co-operative Societies

Order

No. 20-192-1999/ARSZ/Credit/862

- Read: 1) Order No. 20-192/1999/ARSZ/Credit/
/2304 dated 15-01-2020.
2) Order No. 20-192/1999/ARSZ/Credit/837
dated 04-07-2022.

(Under Section 67A of the Goa Co-operative Societies Act, 2001)

Whereas, vide order referred to at Sr. No. 1 above, three-member Committee of Administrators (including one Government official) was appointed to look after the affairs of the Visionaries Urban Co-op. Credit Society Ltd., Loutolim, Salcete, Goa (hereinafter referred to as "the said society").

And whereas, vide the above referred order, the Committee of Administrators appointed therein were required to immediately take over the complete charge of the said society in order to look after its day-to-day affairs.

Accordingly, the Committee of Administrators had assumed the partial charge of the said society. However, the Committee of Administrators expressed their reluctance to take over the complete charge of the records of the said society since the records were incomplete due to non-finalisation of audit for the year 2018-19.

Further, this office had time-to-time directed the Committee of Administrators to take over the complete charge of the society in order to resolve the issues of the depositors. So also, in order to resolve the issue, Ex-Chairperson, Smt. Gracy Vaz was called on by this office for discussion in the matter on various occasions, however, she neither turn-up nor showed any interest to co-operate in the matter. She was also issued directions vide several letters by this office in the matter to extend co-operation to the Committee of Administrators, however she did not comply with the instructions issued. Therefore, due to failure on the part of Committee of Administrators to take over the complete charge of the said society, the purpose for which the said Committee of Administrators was appointed is defeated.

And whereas, several meetings were held with the Committee of Administrators and statutory auditor, Shri Anup Borkar, Chartered Accountants (appointed under Section 74(4) of the Goa Co-operative Societies Act, 2001) including a meeting in the presence of Shri Videsh Shirodkar,

Police Inspector, Economic Offences Cell, Panaji, Goa. In every such meeting it was concluded that in order to resolve the issue it is inevitable for the Committee of Administrators to take over the complete charge of books and records of the said society after preparing inventory of existing records. During the meetings, Shri Anup Borkar and Shri Videsh Shirodkar had also expressed their willingness to offer guidance and technical support to the Committee of Administrators in order to take over the complete charge of the said society.

And whereas, in order to facilitate the Committee of Administrators to take over the complete charge of the said society, this office deployed three officials to assist the Committee of Administrators to take over the complete charge of the said Society by following the process of preparing inventory of the existing records of the said Society.

And whereas, in spite of the all the directions, assistance, guidance and moral as well as technical support as mentioned above, the Committee of Administrators showed reluctance to take over the complete charge of the said Society as a result of which the matter is not yet resolved and the overall position of the said Society is feared to be further deteriorated.

And whereas, in the meantime, the depositors vide their letter dated 02-05-2022 suggested to appoint Smt. Joyce Veyona Dias on the Committee of Administrators in place of Shri Myron Jude Fernandes.

And whereas, now in order to overcome the present stalemate that is prevailing due to above facts and lack of co-operation, it is felt necessary to re-constitute the Committee of Administrators by appointing Government official as the Chairman on the said Committee of Administrators.

Therefore, in view of above facts and the reasons stated herein, and in exercise of the powers vested in me under Section 67A of the Goa Co-operative Societies Act, 2001 and in partial modification of the Order dated 04-07-2022 at reference No. 2 above, I, Suraj S. Ghaisas, Assistant Registrar of Co-operative Societies, South Zone, Margao, Goa do hereby appoint the following Committee of Administrators (CoA) to manage the affairs of the Visionaries Urban Co-operative Credit Society Ltd., Loutolim, Salcete, Goa with immediate effect.

- | | |
|---------------------------|-------------|
| 1) Shri Subhash D. Gawas | — Chairman. |
| 2) Smt. Maria Vanda Gomes | — Member. |
| 3) Smt. Joyce Veyona Dias | — Member. |

The term of the above committee shall be for initial period of six months. The aforesaid Committee

shall immediately take over the complete charge of the assets, books and records of the said society by preparing an inventory. The said committee shall be under the control of this Authority and obey all such instructions/directions issued by this Authority from time-to-time.

Given under the seal of this Office.

Suraj Ghaisas, Asst. Registrar, South Zone
(Co-operative Societies).

Margao, 7th July, 2022.

Order

No. 20-192-1999/ARSZ/Credit/982

- Read: 1) Order No. 20-192/1999/ARSZ/Credit/2304 dated 15-01-2020.
- 2) Order No. 20-192/1999/ARSZ/Credit/837 dated 04-07-2022.
- 3) Order No. 20-192/1999/ARSZ/Credit/862 dated 07-07-2022.
- 4) Letter dated 28-07-2022 received from Shri Subhash D. Gawas,

Under Section 67A of the Goa Co-operative Societies Act, 2001

Whereas, vide order referred to at Sr. No. 1 above, three-member Committee of Administrators (including one Government official) was appointed to look after the affairs of the Visionaries Urban Co-op. Credit Society Ltd., Loutolim, Salcete, Goa (hereinafter referred to as "the said society").

And whereas, vide the above referred order, the Committee of Administrators appointed therein were required to immediately take over the complete charge of the said society in order to look after its day-to-day affairs.

However, the Committee of Administrators expressed their reluctance to take over the complete charge of the records of the said society since the records were incomplete due to non-finalisation of audit for the year 2018-19.

Further, this office had time-to-time directed the Committee of Administrators to take over the complete charge of the society in order to resolve the issues of the depositors. So also, in order to resolve the issue, Ex-Chairperson, Smt. Gracy Vaz was called on by this office for discussion in the matter on various occasions, however, she neither turn-up nor showed any interest to co-operate in the matter. She was also issued directions vide several letters by this office in the matter to extend co-operation to the Committee of Administrators, however she did not comply with the instructions

issued. Therefore, due to failure on the part of Committee of Administrators to take over the complete charge of the said society, the purpose for which the said Committee of Administrators was appointed is defeated.

And whereas, several meetings were held with the Committee of Administrators and statutory auditor, Shri Anup Borkar, Chartered Accountants (appointed under Section 74(4) of the Goa Co-operative Societies Act, 2001) including a meeting in the presence of Shri Videsh Shirodkar, Police Inspector, Economic Offences Cell, Panaji, Goa. In every such meeting it was concluded that in order to resolve the issue it is inevitable for the Committee of Administrators to take over the complete charge of books and records of the said society after preparing inventory of existing records. During the meetings, Shri Anup Borkar and Shri Videsh Shirodkar had also expressed their willingness to offer guidance and technical support to the Committee of Administrators in order to take over the complete charge of the said society.

And whereas, in order to facilitate the Committee of Administrators to take over the complete charge of the said society, this office deployed three officials to assist the Committee of Administrators to take over the complete charge of the said Society by following the process of preparing inventory of the existing records of the said Society.

And whereas, in spite of the all the directions, assistance, guidance and moral as well as technical support as mentioned above, the Committee of Administrators showed reluctance to take over the complete charge of the said society as a result of which the matter is not yet resolved and the overall position of the said society is feared to be further deteriorated.

And whereas, in view of facts cited above, the order referred to at Sr. No. 2 above was partially modified vide order referred to at Sr. No. 3 above thereby appointing Shri Subhash D. Gawas, Sr. Auditor, as the Chairman of the Committee of Administrators.

And whereas, the said Shri Subhash D. Gawas, vide his letter referred to at Sr. No. 4 above informed this office that he is presently posted at O/o Asst. Registrar of Co-op. Societies, Bicholim Zone, Sankhalim, Goa where he is been assigned to conduct the re-audit of Maharashtra V.K.S.S. Society Ltd., Gokulwadi, Sankhalim, Goa for the years 2016-17 and 2017-18 and also regular audit of said society for further years 2018-19 to 2019-20. He further expressed his difficulty for taking over the charge of the visionaries Urban Co-op. Credit Society

Ltd., Loutolim, Salcete, Goa and requested to delete his name from the said Committee of Administrators.

And whereas, in view of above facts and in view of verbal suggestion received from Mrs. Maria Vanda Gomes (one of the member of the Committee of Administrators vide order referred to at Sr. No. 1, 2 & 3 above) that, the Government officials be appointed on the Committee of Administrators, it is felt appropriate to appoint the Committee of Administrators consisting of Government officials instead including members of the said society therein.

And whereas, in view of above and in order to overcome the present situation that has been occurred due to above facts, it is felt necessary to re-constitute the Committee of Administrators by appointing Government officials on the said Committee.

Therefore, in view of above facts and the reasons stated therein and in exercise of the powers vested in me under Section 67A of the Goa Co-operative Societies Act, 2001 and in supersession of all orders referred to hereinabove, I, Suraj S. Ghaisas, Asst. Registrar of Co-op. Societies, South Zone, Margao, Goa do hereby appoint the following Committee of

Administrators (CoA) to manage the affairs of the Visionaries Urban Co-op. Credit Society Ltd., Loutolim, Salcete, Goa with immediate effect.

- 1) Shri Shriram T. Narvekar — Chairman.
- 2) Shri Suresh Rivonkar — Member.
- 3) Shri Pramod Pendse — Member.

The term of the above Committee shall be for initial period of six months. The aforesaid Committee shall immediately take over the complete charge of the assets, books and records of the said society. The said committee shall be under the control of this Authority and obey all such instructions/ /directions issued by this Authority from time-to-time.

The handing over and taking over of assets, books and records of the said society shall take place immediately in terms of Section 123A of the Goa Co-operative Societies Act, 2001 failing which action as provided under Section 123A(3) shall be initiated.

Suraj Ghaisas, Asst. Registrar, South Zone (Co-op. Societies).

Margao, 28th July, 2022.

Department of Home

Office of the Director General of Police

Order

No. ES-I(A)/Transfer of P. P./6591/2022

On the recommendation of the Police Establishment Board, the below mentioned Dy. Superintendent of Police are hereby transferred and posted at the places indicated against their names with immediate effect:-

Sr. No.	Designation & Name	From	To
1.	Dy. SP, Sunita Sawant	Dy. SP (Security), Panaji	Dy. SP (ACB/Vigilance).
2.	Dy. SP, Sucheta B. Dessai	Dy. SP (ACB/Vigilance)	Dy. SP, GRP B Coy.
3.	Dy. SP, Edwin M.S. Colaco	Dy. SP, GPR B Coy	Dy. Commandant, 1st IRBn (Addl. charge of GPWS).

S. M. Prabhudessai, Superintendent of Police, HQ.

Panaji, 15th July, 2022.

Inspectorate of Factories & Boilers

Notification

No. VI/FAC-3/(GOA/796)Part/2022-IFB/1426

In exercise of the powers conferred by the proviso to Clause (b) of sub-section (1) of Section 66 of the Factories Act, 1948 (Central Act No. 63 of 1948) (hereinafter called the "said Act"), the Government of Goa hereby varies the limits laid down in said Clause (b) of sub-section (1) of Section 66 of the said Act in respect of employment of women in the factory, namely, M/s. Sanofi India Limited, Plot No. L-121, Phase-III, Verna Industrial Estate, Verna, Salcete, Goa, thereby authorising the employment of women in the said factory between the hours of 7 p.m. and 10 p.m., for a period of two years with effect from the date of publication of this notification in the Official Gazette.

By order and in the name of the Governor of Goa.

Vivek P. Marathe, Chief Inspector & ex officio Jt. Secretary (Factories and Boilers).

Panaji, 27th July, 2022.

Notification

No. VI/FAC-3/(GOA/1308) Part/2022-IFB/1427

In exercise of the powers conferred by the proviso to Clause (b) of sub-section (1) of Section 66 of the Factories Act, 1948 (Central Act No. 63 of 1948) (hereinafter called the "said Act"), the Government of Goa hereby varies the limits laid down in said Clause (b) of sub-section (1) of Section 66 of the said Act in respect of employment of women in the factory, namely, M/s. Sanofi Healthcare India Private Limited, Plot No. L-121, Phase-III, Verna Industrial Estate, Verna, Salcete, Goa, thereby authorising the employment of women in the said factory between the hours of 7 p.m. and 10 p.m., for a period of two years with effect from the date of publication of this notification in the Official Gazette.

By order and in the name of the Governor of Goa.

Vivek P. Marathe, Chief Inspector & ex officio Jt. Secretary (Factories and Boilers).

Panaji, 27th July, 2022.

Department of Labour

Order

No. 28/12/2022-LAB/373

Whereas, the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Goa State Co-operative Marketing and Supply Federation Limited, Panaji, Goa and its workman, Shri Madhu V. Khandeparker, Manager, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas, the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Labour Court-II of Goa at Panaji-Goa, constituted under Section 7(1) of the said Act.

SCHEDULE

- "(1) Whether Shri Madhu V. Khandeparkar, Manager, could be construed as "workman" as defined under the Industrial Disputes Act, 1947 (Central Act 14 of 1947)?
- (2) If answer to the above issue No. (1) is in affirmative, then whether the action of the management of M/s. Goa State Co-operative Marketing and Supply Federation Limited, Panaji, Goa, in terminating the services of Shri Madhu V. Khandeparker, Manager, with effect from 04-08-2020 is legal and justified?
- (3) If answer to issue No. (2) above is in negative, then what relief the workman is entitled to?"

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).

Porvorim, 27th July, 2022.

Notification

No. 28/02/2022-LAB-Part-I/350

The following Award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 04-07-2022 in Ref. No. IT/02/2018 is hereby published as required under Section 17 of the

Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).

Porvorim, 12th July, 2022.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT

GOVERNMENT OF GOA AT PANAJI

(Before Ms. Bela N. Naik, Hon'ble Presiding
Officer)

Ref. No. IT/02/2018

Workmen,

Rep. by General Secretary,

Gomantak Mazdoor Sangh,

G-5, Macedo Appts.,

Tisk, Ponda-Goa Workmen/Party I.

V/s

1. M/s Qualpro Diagnostics System,
Division of Tulip Diagnostics (P) Ltd.,
Verna Industrial Estate,
Verna, Salcete-Goa Employer/Party II (1).

2. Goa Trade & Commercial
Workers' Union, Velho Bldg.,
Panaji-Goa. Party II (2).

Workmen/Party I represented by Ld. Representative
Shri P. Gaonkar.

Employer/Party II (1) represented by Adv. Shri M. S.
Bandodkar.

Party II (2) represented by Adv. Suhaas Naik.

A W A R D

(Delivered on this the 4th day of the month
of July of the year 2022)

By Order dated 29/01/2018, bearing No. 28/31/
/2017-LAB/82, the Government of Goa in exercise
of powers conferred by Section 10(1)(d) of the
Industrial Disputes Act, 1947 (for short 'The Act'),
has referred the following dispute to this Tribunal
for adjudication.

(1) "Whether the action of the Management of
M/s Qualpro Diagnostics System, Division of Tulip
Diagnostics (P) Limited, Verna Industrial Estate,
Verna - Goa in not conceding the following demands
raised by the Gomantak Mazdoor Sangh vide their
letter dated 28/11/2016, is legal and justified?

Charter of Demands

Demand No. 1: PAY SCALES:

Grades:

- I. 3575-160-4375-180-5275-200-6275-220-
7375-240-8575-260-9875-280-11275.
- II-3: 4050-185-4975-205-6000-225-7125-245-
8350-265-9675-285-11100-305-12625.
- III-2: 4500-200-5500-220-6600-240-7800-260-
9100-280-10500-300-12000-320-13600.
- IV-1: 5075-235-6250-260-7550-285-8975-310-
10525-225-12200-360-14000-385-15925.

Demand No. 2: Flat Rise:

Union demands that all the workmen shall be
given the flat rise at the rate of Rs. 4000/- in the
Basic.

Fitment: The above amounts should be added to
the existing basic and thereafter in the revised pay
scale in the higher stage.

Demand No. 3: Seniority Increments:

Union demands that the workmen should be
given Seniority increments as mentioned below:

- Service up to 3 years : One Increment
- Service from 3 years : Two Increments.
- to 7 years
- Service from 7 years : Three Increments
- to 10 years
- Service from 10 years : Four increments
- to 15 years
- Service from 15 years : Five Increments
- to 20 years
- Service above 20 years : Six Increments

Demand No. 4: Variable Dearness Allowance:

Union demands that the VDA shall be paid at
the revised rate of Rs. 3/- per point rise beyond
4500 points of AICPI (1960) the computation of VDA
shall be made quarterly based as per existing
system.

Demand No. 5: House Rent Allowance:

Union demands that HRA should be paid at the
revised rate of 30% of Basic, as the cost of
accommodation is very high in Goa due to Tourist
State.

Demand No. 6: Education Allowance:

The Union demands that Education Allowance
shall be paid at the revised rate of Rs. 2500/- per
month.

Demand No. 7: Conveyance Allowance:

Union demands that all workmen shall be paid
conveyance allowance @ revised rate of Rs. 2500/-
per month.

Demand No. 8: Paid Holidays:

Union demands that all the workmen shall be
granted paid holidays at rate 12 days per year.

Demand No. 9: Leave:

Union demands that all the workers should be given leave on following basis:

- (A) Earned Leave: Union demands that all the workmen should be given Earned Leave at the rate 35 days E.L. per year with accumulation up to 120 days and leave shall be allowed to take 10 times in a year.
- (B) Casual Leave: Union demands that all the workmen should be given Casual Leave at the rate of 15 days per year with encashment facility.
- (C) Sick Leave: Union demands that those workmen covered under ESIC should be given Sick Leave at the rate of 15 days per year. And those workmen outside the purview of ESIC shall be given 15 days Sick Leave per year with accumulation up to 75 days.

Demand No. 10: Leave Travel Assistance:

Union demands that LTA should be paid at the revised by adding Rs. 5000/- per annum to the existing LTA, with minimum of four days Earned Leave. The amount shall be paid one week before the commencement of leave.

Demand No. 11: Medical Reimbursement:

Union demands that those workmen who are outside the purview of the ESIC, shall be reimbursed full medical expenses incurred by him for self and his family including dependent father and mother.

Demand No. 12: Loan:

Union demands that existing loan shall be increased to Rs. 300000/- towards house repair and construction of House and towards the purchase of household articles or marriage of self or his/her family member, purchase of vehicle etc.

Demand No. 13: Bonus/Exgratia:

Union demands that all the workers shall be paid Bonus/Ex-gratia at the rate of 20% of gross wages (Basic, FDA & VDA) every year, before Diwali.

Demand No. 14: Shift Allowance:

Union demands that those workmen work in the shifts shall be paid shift allowance as under: Second Shift: Rs. 50/- per second shift. And Third Shift: Rs. 75/- per third shift.

Demand No. 15: Fixed Dearness Allowance:

Union demands that all the workers shall be paid FDA @ revised rate of Rs. 1500/- per month.

Demand No. 16: Accident Benefits while on duty and while coming for duty and while going home from duty:

Union demands that those workmen who met with accident while coming for duty and going

back from the duty shall be treated as accident while on duty and they shall be given all the benefits such as full wages and full medical reimbursement to the concerned workman.

Demand No. 17: City Compensatory Allowance:

Union demands that all the workmen shall be paid CCA at the revised rate of Rs. 1000/- per month.

Demand No. 18: Meal Reimbursement:

Union demands that the workmen who will continue from the First/General Shift to Second Shift or Second Shift to General/First Shift shall be paid Rs. 150/- per day per shift work.

Demand No. 19: Transport Facility:

Union demands that management shall provide free transport facility in all shifts from the following routes:

- (a) Verna to Panaji and back.
- (b) Verna to Margao and back.
- (c) Verna to Vasco and back.
- (d) Verna to Ponda and back.

Demand No. 20: Canteen Facility: Union demands that the management shall provide the subsidies rate canteen facility in all the shifts.

Demand No. 21: Emergency Gate Pass: Union demands that in case of emergency management should give the gate pass to the worker to go out of the factory.

(2) If the answer to issue No. (1) above is in the negative, then, what relief the workmen are entitled to?"

2. Upon receipt of the reference, it was registered as IT/02/2018 and registered A/D notices were issued to both the parties. Pursuant to service of notices, Party I filed a Claim Statement at Exhibit 4. Thereafter, the Party II(1) filed its Written Statement which is at Exhibit 6.

3. The brief facts giving rise to the present reference is that the Employer/Party II is engaged in the business of manufacturing of pharmaceutical/health industry, manufacturing Tests and other products related to diagnostics and the Tulip Diagnostics Pvt. Ltd. is the Company which owns the Employer/Party II along with other two establishments namely Orchid Biomedical Systems and Zephyr Bio-medicals and all these three Units are engaged in the same business and are located in the same premises. The Party I/Workmen Union is a registered Trade Union operating in the State of Goa and a Settlement dated 22/05/2014 was entered into by the Party I with the workmen represented by a Trade Union namely Bhartiya Kamgar Sena (BKS) under Section 2(p) of the Industrial Disputes Act, 1947.

4. That on 28/11/2016 the Party I raised the Charter of Demand and also giving Notice of Intention to terminate the existing Settlement dated 22-05-2014 to which the Party II sent a reply on 20-06-2017 stating that the Gomantak Mazdoor Sangh (GMS) could not have raised the Charter of Demand since it does not have the majority and the Goa Trade & Commercial Workers' Union enjoyed the majority. The Party I replied by letter dated 10/07/2017 and maintained that they could validly raise the Charter of Demand and on 26/07/2017 the Party II wrote to the Dy. Labour Commissioner in response to Party I's letter dated 10/07/2017. On 04/08/2017, the Party I wrote to the Party II informing it about the additional workers who had joined the GMS and the Party II was informed that the total membership has increased to 126 and therefore that the Union was the majority Union in the establishment and request to sort out the Charter of Demand which was pending. In spite of being the fact that the Party I represented majority of the workers, the party II signed the settlement dated 09/08/2017 u/s 2(p) of the Industrial Disputes Act, 1947 with the Goa Trade & Commercial Workers' Union. It is stated that the Party I by its letter dated 10/08/2017 to the Labour Commissioner informed him about the unfair labour practices implemented by the Party II by signing a settlement by ignoring the majority Union and on 11/08/2017 the matter of charter of demands was admitted in conciliation and the minutes of conciliation were made. None participated in the conciliation proceedings on behalf of the Party II. On 14/08/2017, the party I informed the Party II about its election of the local committee along with authorization for representation before the authorities and another letter dated 14/08/2017 was written to the Labour Commissioner by Party I highlighting the various unfair labour practices being implemented by the Party II. Thereafter on 09/10/2017, the Dy. Labour Commissioner gave his Failure Report to the Government of Goa and hence the present Order of reference.

5. It is stated that the All India Consumer Price Index (AICPI) has been increasing exponentially and this has caused a corresponding decrease in the purchasing power of the pay packet of the workers in the Party II establishment and the upward increase of the AICPI itself warrants a corresponding revision of wages. The present wages of the workers are at a level below 'minimum wages' as understood under industrial juris prudence and thus the wages are to be brought to a level of at least a 'fair wage' and in the alternative to the levels of 'living wage'. In the relevant period, the

Party II has been in prime financial health showing profits and thus would be in a position to bear an additional burden imposed by way of revision of wages in similar establishments maintained by other Employers in the State of Goa are paying higher wages and the conditions of service in these establishments are way better than the Party II in the present case.

6. It is further stated that a fair cross-section of pay-scales, allowances and other emoluments in the State of Goa clearly reflects better wage structure along with allowances, other emoluments and employee benefits. It is stated that the Union shall make an endeavor to compare the Party II to other establishments like the ones run by M/s Indoco Remedies, M/s Geno Pharmaceuticals and other companies to satisfy this Tribunal on the 'industry' component of the industry-cum-region principle used in wage adjudication. Similarly, the Union shall also rely upon other establishments in the State of Goa to satisfy the 'region' component of the industry-cum-region principle. It is further stated that the Government Departments have the benefit of Pay Commissions which study the wage structure and the Government employees need not fight for wage adjudication before any Court or Tribunal and the employees of the private sector and public sector corporations are however dependent on their Employers and their willingness to negotiate terms of service by way of collective bargaining and that the Pay Commissions' Report give a deeper insight into how wages are fixed and what is the minimum level of wages ought to be. The Pay Commissions Report are therefore of considerable relevance to wage adjudication in private sector in so far as the first principles of wage fixation are enumerated therein and the Union shall rely on the latest VII Pay Commission Report to press upon the first/basic principles of wage fixation. The Union deals with the individual demands as listed in the charter of demands. Hence, it is prayed by the Party I Union that the reference be decided in their favour by granting all the demands raised by the Union on behalf of the workers.

7. Written Statement came to be filed by Party II(1) denying the case put forth by the Party I and it is their objection that the entire reference itself is bad in law and not maintainable as the reference is not made on the entire Company and on this ground itself the reference needs to be rejected.

8. The Party II(1) states that they have signed comprehensive settlement with Goa Trade and

Commercial Workers' Union on their Charter of Demands dated 22/02/2017, which is a majority Union and the said settlement has been signed on 09/08/2017 and accepted by majority Union without any exception by all the establishments of Party II (1) situated at Verna Industrial Estate. The Party II (1) which is Tulip Diagnostics P. Ltd. have offered the said settlement signed under Section 2(p) read with Rule 18 sub clause 1 of the Industrial Disputes Act, 1947 to all the members of Party I and some of the members of the Party I have accepted the settlement without any reservations and minority part of the Party I have not accepted the said settlement. The Party I have not accepted the settlement at that time and they are not giving the productivity as agreed as per clause 19 "productivity" in the settlement. According to Party II(1) it is the settled law that having accepted by all the Industries that a settlement signed by the majority Union has to be accepted by the minority and the settlement cannot be weighed in the golden scale and looked into very minutely. The settlement is fair and reasonable and on this ground alone, the Party I have to accept the said settlement in toto without any reservations, which has been offered to Party I immediately after signing of the said settlement.

9. It is further the case of the Party II(1) that the word 'division' is mentioned only because of the sales and marketing requirements and the establishment do not work separately. The establishment does not have separate balance sheets and there is only one balance sheet of all the establishments, i.e. Tulip Diagnostics P. Ltd. and all the establishments as mentioned by Party I as divisions are not financially independent and they are all together. The establishments of the same Company i.e. Tulip Diagnostics P. Ltd. and it has signed the settlement along with all its establishments at Verna which is called as 'division' by Party I. That the Orchid Biomedical System, Qualpro Diagnostics and Zephyr Biomedicals are not divisions of Tulip Diagnostics P. Ltd. but they are part and parcel of Tulip Diagnostic P. Ltd. financially or otherwise and therefore demand purporting to be on the division of Tulip Diagnostics P. Ltd. cannot be raised and as such the said demand is bad in law. The firms like Orchid Biomedical System, Qualpro Diagnostics, Zephyr Biomedicals, Coral Clinical Systems were partnership concerns merged by virtue of law in Tulip Diagnostic Pvt. Ltd. from the closure of business hours on 30/01/2017 and as such from 31/01/2017 there are no divisions and there is only one Company known as Tulip Diagnostics Pvt. Ltd. It is also their

objection that the Union has no locus standi as the person on whose behalf the dispute has been raised are not members of the said Union nor have the workers as claimed by them have issued any Resolution seeking to raise the demand before the Management and on this ground also the demand needs to be rejected.

10. The Party II(1) further states that it has a majority Union namely Goa Trade and Commercial Workers' Union with whom the Party II(1) have signed the comprehensive settlement dated 09/08/2017 arising out of the Charter of Demand dated 22/02/2017 covering all the demands as given by the Party II(2) and the same settlement was offered to the so called members of the Party I however, the Party I refused to accept the settlement. The Party I is trying to discriminate between the workmen and is creating industrial relation problems giving high hopes to the minority workmen who according to the said Union are members of the said Union. It is further stated that by virtue of law, the Party I is trying to discriminate between the workmen and is creating industrial relations problems giving high hopes to the minority of workmen who according to the said Union are members of the said Union and this Tribunal having regard to judgment of the Apex Court including judgment on industry cum region principles capacity to pay comparable concerns ought not to grant anything to the workmen and on that ground alone the reference ought to be rejected.

11. The Party II(1) states that the Tulip Diagnostics (P) Ltd. is a diagnostic company which is involved in manufacturing and market of in-vitro diagnostics reagents, kits and instruments and the Company is not pharmaceutical company as mentioned by the party I. The Party II(1) states that 7 manufacturing Units in Goa are located at Verna Industrial Estate and all of them are within a radius of 1-3 kms. All their products are in-vitro use in pathological laboratories to diagnose a disease. One step test or Elisa is a principle based on which various tests/products are manufactured for various application and infectious diseases or Parasitology has a wide range of products which differ from each other in terms of their applications which are used in pathological laboratories.

12. The Party II(1) states that originally the workers were represented by Bharatiya Kamgar Sena and Tulip Group of Companies Employees Union and that the Party II(1) had signed two settlements, one with the Bharatiya Kamgar Sena dated 22/05/2014 and other with Tulip Group of Companies

Employees Union dated 10/06/2014. The Party II(1) states that the Goa Trade and Commercial Workers Union raised a Charter of Demand dated 22/02/2017 and after thorough negotiations with the said Union, the settlement was signed on 09/08/2017 and it is true that the Party I raised the Charter of Demand on 28/11/2016, however, it has no authority to terminate any settlement as majority of the workers are not the members of the Party I Union nor any of the workers have passed any Resolution to terminate the settlement or to submit a charter of demand and on that ground alone, the charter of demand raised by Party I cannot be entertained. The Party II(1) further states that it had written a letter dated 20/06/2017 mentioning that the Party I cannot raise the charter of demand since it does not have the majority and that the Goa Trade and Commercial Workers' Union is the majority Union. The Party II(1) further states that all partnership firms like Orchid Biomedical Systems, Qualpro Diagnostics, Zephyr Biomedicals and Coral Clinical Systems were merged to Tulip Diagnostics (P) Ltd. and as of today there are no divisions or partnership concerns and there is only one Company i.e. Party II Company Tulip Diagnostics (P) Ltd. The earlier settlements were signed with Bhartiya Kamgar Sena dated 22/05/2014 and Tulip Group of Companies Employees Union dated 10/06/2014 and the majority of the employees had joined Goa Trade and Commercial Workers' Union, therefore Company was justified in not signing the settlement with the Gomantak Mazdoor Sangh which is a very minority Union and to avoid discrimination and industrial relation problem. The Party II(1) further states that the letter dated 10/07/2017 given by the Union was appropriately replied to by Party II(1) by its letter dated 26/07/2017 and it was not legally correct on part of the Party I to raise the Charter of Demands.

13. The Party II(1) further states that it is true that Party II(1) wrote letter dated 26/07/2017 to the Dy. Labour Commissioner explaining all the true facts in reply to Party I letter dated 10/07/2017 and some of the important points covered under the said letter were that they do not have Company in any other name other than Tulip Diagnostics (P) Ltd. The Party II(1) further states that the secret ballot theory is not recognized under the Industrial Disputes Act, 1947 or the Trade Union Act and the Party II(1) having regards to all the principles under the Industrial Disputes Act and the principle laid down by the Apex Court and having regard to industry-cum-region principle, capacity to pay and comparable concerns signed a settlement with the Goa Trade and Commercial Workers' Union. The Party II(1) was really surprised as to how it can

send 3 Charter of Demands to one Company claiming that there are different divisions wherein membership exists.

14. The Party II further states that it is true that they received a letter dated 04/08/2017 from the Union, the contents of which were wrong and there is no question of Party I being majority Union and the Party I was never a majority Union. The Party II(1) further states that the Party I wrote letter dated 10/08/2017 to the Dy. Labour Commissioner, however, the demand in conciliation itself is bad in law as the Party II(1) had informed the Conciliation Officer that there was no question of considering demands by few workers claiming to be majority in a so called division of the Company. The Party II(1) further states that it was not necessary to participate in negotiation on behalf of Party II(1) as it was futile and Party I's unreasonable demands itself could not be considered for the reasons mentioned hereinabove. The Party II further states that they received the letter dated 14/08/2017, however, the Party II disputed the correctness of the authorization contained in the said letter as it is defective and in fact Party II have not received any letter showing that the workers have authorized Shri P. Gaonkar or to correctly represent them or that any resolution was annexed with the said letter and further states that the contents of the letter dated 14/08/2017 were absolutely false and baseless and emphatically denies all the contents of the said letter and that they have correctly signed the settlements and being comprehensive settlement, the entire allegations of the party I are bad in law and no unfair labour practice is committed by the Party II(1).

15. The Party II(1) further states that the Dy. Labour Commissioner gave his Failure Report dated 09/10/2017 but the present Order of Reference dated 29/01/2018 is totally bad in law and in that there is basic defect in the said reference and that it has signed proper, rational, reasonable and progressive settlement with Goa Trade & Commercial Workers' Union and the said settlement was required to be accepted by the Party I. The Party II(1) states that the concept of paying fair wages is utopian idea and fair wages are being paid by the Company and the concept of living wages would change from region to region and that the Company has paid fair wages in the Settlement. The Party II(1) further states that the Company/Party II(1) cannot be compared to any pharmaceutical Companies and it is not in prime financial health showing profits as it is making small profit and comparison with Indico Remedies,

Geno pharmaceuticals are not comparable concerns and the Company is not in a position to take any additional financial burden by revising the wages.

16. The Party II(1) further submits that Goa Trade and Commercial Workers Union is not only a majority Union but the said settlement signed with the majority Union is fair and reasonable and majority of the workers have accepted the same and further submits that since it has already signed settlement with Goa Trade and Commercial Workers' Union, therefore, there is no question of comparing pay-scales allowances and other emoluments in the regions nor it is required to be compared with any other Companies and the Union cannot rely upon other establishments in the region to satisfy the region component of the industry cum region principle. The Party II(1) further submits that existing wage structure is fair and reasonable and therefore no case exist for granting for considering the demand and that it has absolutely taken into consideration the factor of flat rise while fixing the wages while signing of the settlement. It is further submitted that it has given seniority increment in the settlement signed with Goa Trade & Commercial Workers' Union and that the entire demand is misconceived and not maintainable since the party II while increasing the emolument has taken into consideration Variable Dearness Allowance & Fixed Dearness Allowance is accordingly fixed and that no place exists for granting Variable Dearness Allowance and that the Party I by demanding Variable Dearness Allowance and other emoluments is trying to discriminate amongst the workers which is disturbing industrial relations in the Factory.

17. It is further stated that the House-Rent Allowance, Education Allowance, Conveyance Allowance and Transport facility, Paid Holidays, Leave and Leave Travel Assistance, Medical Reimbursement and Accident Benefits, Loan issues, Bonus/Ex-Gratia, Shift Allowance, demands regarding meals and canteen, emergency Gate Pass are all taken care of in the settlement dated 09/08/2017 and this settlement dated 09/08/2017 is a very fair and reasonable settlement with Goa Trade and Commercial Workers' Union giving substantial increase in several emoluments and the demands and the arrogance is formed by Party I who are minority workers by not accepting the settlement are only trying to make industrial problem and discontent amongst the workers. The Party II states that no case is made out for granting or considering their demands and therefore the reference needs to be rejected.

18. In the Rejoinder at Exhibit 7 the Party I denied the case put forth by Party II(1) in the Written Statement.

19. Written Statement also came to be filed by Party II(2) who were added subsequently and they denied the case put forth by the Party I. It is the preliminary objection raised by Party II(2) that the Party I Union has made serious allegations against them alleging that the settlement signed by Party II(2) Union is an unfair settlement and states that it becomes necessary to decide whether the settlement dated 09/08/2017 signed by Party II(2) with the Employer Party II is fair and reasonable.

20. The Party II(2) Union has mentioned in detail the salient features of this settlement which are as follows:

Party II(2) Union as and by way of preliminary objections submits that the Party I Union has made serious allegations against the Party II(2) Union in its Interim Relief Application para 7 alleging that the settlement signed by Party II(2) Union is an Unfair settlement.

In the said Interim Relief it is also alleged that Party II(2) Union is a "handpicked Union" and that the Party II company though it convenient to negotiate with this Union being it a "handpicked Union".

1. The Party II(2) Union specifically denies that above allegations as the same are false and misleading. However, without prejudice the Party II(2) Union states that when the serious allegations of unfair settlement is alleged it is necessary to first decide whether the settlement dated 09/08/2017 signed by Party II(2) Union with the Party II employer is fair and reasonable or whether it is unfair settlement before proceedings to other issues.
2. The Party II(2) Union states that in the interest of justice it is therefore necessary to first frame the preliminary issue regarding fairness of the said settlement dated 09/08/2017 and all other issues needs to be decided subsequently.

Without prejudice, the Party II(2) Union offers its para-wise comments to the Written Statement and Interim Relief application as under. The Party II(2) Union states that it is a registered trade Union duly registered under the Trade Unions Act, 1923, having its office at 2nd Floor, Velhos' Building, Panaji-Goa.

3. The Party II(2) Union states that the majority workmen employed with Party II and its group companies are the members of Party II(2) Union and Party II (2) Union is espousing the cause of these workmen before every competent forum and authorities.
4. The Party II(2) Union states that after the unionization by these workmen Party II(2) Union submitted a comprehensive charter of demand before the management of the Party II(1) company, seeking revision and enhancement in their existing salaries, allowance and other service conditions by its demand letter dated 22/02/2017.
5. The Party II (2) Union states that pursuant to this, the Party II(2) Union held several rounds of protected and prolonged discussions with the management of Party II company and after series of prolonged and protected bilateral discussions, the Party II(2) company dated 09/08/2017 and majority of the workmen employed with Party II company have accepted the said settlement dated 09/08/2017 and the benefits extended under this settlement.
6. The Party II(2) Union states that the salient features of this settlement are spelt-out hereunder:-

Terms of Settlement

1. Applicability:

This settlement is applicable to all permanent workers working in the above factories who are on the rolls of the company as on the date of signing of this settlement.

2. Period of Settlement:

(iii) It is agreed between the parties that this settlement shall be applicable for a period of 3 years and 6 months i.e. from, 1st April, 2017 to 30th September, 2020.

3. Revision in Salary:

All the workmen shall be paid salary revision as under:-

- a) Rs. 3250/- for the 1st year i.e. from 1st April, 2017 to 31st March, 2018.
- b) Rs. 1200/- for the 2nd year i.e. from 1st April, 2018 to 31st March, 2019.
- c) Rs. 1200/- for the 3rd year i.e. from 1st April, 2019 to 31st March, 2020.
- d) Rs. 1500/- for subsequent 6 months i.e. from 1st April 2020 to 30th September 2020 as per the distribution below.

4. Distribution of Money:

It is further agreed between the parties that the distribution of salary revised as per clause (3) above shall be paid as under:-

- a) 50% of the money of 1st year shall be allocated in basic wages and remaining 50% shall be allocated in HRA and Conveyance Allowance.
- b) In 2nd, 3rd and subsequent 6 month 60% of the money shall be allocated to basic wages and remaining 40% shall be allocated to HRA and Conveyance Allowance.

It is further agreed between the parties that distribution between the HRA and the conveyance allowance shall be 50% of each.

5. Fixed Dearness Allowance:

It is agreed between the parties that all permanent workers shall be paid Fixed Dearness Allowance as under:-

- a) Rs. 650/- for the 2nd year i.e. from 1st April, 2018 to 31st March, 2019.
- b) Rs. 650/- for the 3rd year i.e. from 1st April, 2019 to 31st March, 2020.
- c) Rs. 650/- for subsequent 6 months i.e. from 1st April, 2020 to 30th September, 2020.

6. Seniority Allowance:

It is agreed between the parties that seniority allowance of Rs. 35/- shall be paid for each completed year of service as on 1st April, 2017 to all permanent workmen. The said amount will be added to the Fixed Dearness Allowance.

7. Casual and Sick Leave:

It is agreed between the parties that existing quantum and practice shall continue.

8. Privilege Leave:

A) It has been agreed between the parties that the existing PL of 18 days shall be enhanced to 21 days from April 2017. It is also agreed that the existing PL accumulation of 54 days will remain unchanged. It has been also agreed that the PL can be availed for the 5th time in a year only in case of personal emergencies only like hospitalization, death of close family members.

b) It has been agreed by the Union that the workmen shall make full efforts to reduce absenteeism, which is mostly seen in the months of October, November & December.

Food Allowance:

It is agreed between the parties that the existing Food Allowance would remain unchanged and the same will be made applicable to all the workmen in all the units.

9. Shift allowance/Dormitory Allowance:

It is agreed between the parties that existing practice of payment of Shift Allowance/Dormitory Allowance would remain unchanged.

10. Leave Travel Allowance:

It is agreed between the parties that the existing practice of LTA shall continue to remain unchanged.

11. Late Coming:

It is agreed between the parties that, late coming for 10 minutes twice in a month shall be allowed.

12. Company Loan:

It has been agreed between the parties that present loan of Rs. 50,000/- will be enhanced to Rs. 70,000/- with 10% interest on reducing balance to be recovered in 36 equal installments. The existing gap of 6 months for availing a fresh loan will remain unchanged. It is further agreed that the loan applications should not exceed 18 Nos. in a month from all the factories in Verna, Goa.

13. Festival Advance:

It is agreed between the parties that festival advance of Rs. 5000/- shall be paid once a year during Ganesh/Diwali or Christmas festivals, depending upon the faith, which is to be recovered in 5 equal installments. The recovery of the installment amount will commence from the month following the month the advance is disbursed.

14. Canteen & Transport:

It is agreed between the parties that canteen & transport shall remain unchanged. However it has been agreed between the parties that, 2 years from the date of signing of the settlement, the parties will mutually discuss to find a tangible solution and evaluate the feasibility to provide canteen & transport facility workmen.

15. Death Relief Fund:

- (i) It is agreed between the parties that in case of death of a worker, while on the company roll, one day's gross salary will be deducted from the worker's salary and an equal amount will be added by the company and paid to the legal nominee of the deceased worker within 3 months. The deductions will be done from workers employed in Verna Industrial Estate, Verna-Goa.
- (ii) On death of a worker it is agreed that employment shall be considered to be given to one of the eligible/capable dependent who is an immediate family member. All other things being equal the next of kin will be preferred.

16. Medical Allowance:

- a) it is agreed between the parties that Rs. 1000/- per month, per worker be paid from the month the contribution to the ESIC scheme is stopped

and the employee is out of ESIC. The said payment will be paid annually as Medical Allowance. It has been also agreed between the parties that if the ESIC slab changes & employees fall back into the coverage limit against, the allowance of Rs. 1000/- per month will be stopped and against they will be covered under the ESIC.

b) It was agreed that the existing Medical Coverage of Rs. 50,000/- would be enhanced to Rs. 75,000/- per worker which includes his family members. The coverage will not cover Maternity benefit in the police. The enhanced coverage will be effective from 1st September, 2017. However no arrears shall be paid for any of the past claims from 1st April to 31st August.

c) It has been agreed between the parties that the existing annual medical allowance shall be enhanced by Rs. 500/- from April 2017.

17. Overtime:

It is agreed between the parties that overtime shall be reconsidered by evaluating the productivity increase. However, depending upon the work load, the company would be willing to consider overtime at its discretion.

18. PRODUCTIVITY:

- (i) it is agreed between the parties that there will be an increase in productivity from the existing 12000 test/units to minimum 14000 test/units per assembly per 8 hours shift in the existing assemblies.
- (ii) In other units where productivity cannot be measured directly in terms of test/units per assembly, there should be a commensurate increase in the No. of units/kits/pack sizes produced to improve productivity & output.
- (iii) In case any resources are required, they shall be provided after discussions with the respective unit head.

19. Promotion:

It has been agreed between the parties that promotion policy for permanent workers would be looked into once HR based evaluation systems are in place & this could begin from after 2 years from signing of the agreement. The system would measure the individuals based on the skill, efforts and punctuality, discipline and job responsibilities taken to improve productivity.

20. Bonus:

It has been agreed between the parties that the existing workmen shall be categorized as unskilled for FY 16-17 and semi-skilled for FY 17-18 and the bonus shall be paid as per the Payment of Bonus

Act 1965. From FY 18-19 & 19-20 once the skilled categories have been assigned the payout can be done based on the same.

21. Union Contribution:

a) It is agreed between the parties that the benefits arising out of this settlement shall be extended to all those workmen who gives an acceptance letter to the Management by signing a Declaration Form annexed to this settlement at Annexure "A".

b) It is agreed between the parties that the Management shall deduct a once time contribution equivalent at the increase in salary & allowances inclusive of seniority allowance of each beneficiary of this settlement as on 1st April 2017 from the arrears payable to each of the workmen who avail the benefits of this settlement at ANNEXURE- "A" annexed to this settlement irrespective of any Union affiliation/membership and such deducted amount shall be paid by the Management to the Goa Trade & Commercial Workers' Union by a cheque.

22. Arrears:

It is agreed between the parties that arrears arising out of the settlement i.e from 1st April, 17 to 31st July, 17 shall be paid on or before 10th September 2017, to the workmen who sign the declaration mentioned in Annexure A of this settlement.

23. General Clauses:

a) It is further agreed between the parties that no workmen is entitled to work only in one shift continuously, except for health reasons as certified by the certified medical practitioner.

b) This settlement is in full and final settlement in respect of all the demands raised by the Union and workmen in their charter of Demands dated 22nd February 2017 and during the discussions, it is clearly understood by and between both the parties that all other demands raised on behalf of the workmen by the Union/workmen and contained in their Charter of Demand dated 22nd February 2017 which are not specifically dealt with or settled herein were discussed and agreed as withdrawn by the Union/workman and thus settled.

c) During the operative period of this settlement, Union/Workmen shall not raise, pursue and/or agitate any other demand(s) of whatsoever nature entailing additional financial or administrative impact other than what has been agreed in terms of this settlement. The Union also undertakes to maintain peaceful and harmonious industrial

relations and shall not resort to any strike/Go Slow or any other agitation activities during the period of the settlement and shall follow the provisions of Industrial Disputes Act, 1947 for ventilating their grievances of demands. The workmen shall maintain cordial atmosphere in the respective undertakings and in surrounding arrears during the tenure of the settlement and even after expiry of this settlement and till new settlement is signed in accordance with law.

d) It is also agreed by the Union/workmen that all other terms and conditions of service and privileges and practices as well as rights of the Management shall continue to remain in force unless specifically modified by this settlement.

e) The Union/Workmen agreed that strict discipline will be maintained everywhere in the work premises/precincts and also elsewhere in connection with the employment and shall not interfere with the work of others and they shall not create any obstacle/disturbance in day to day production/productivity as well as in the developmental initiatives.

f) It is agreed between the parties that unless otherwise stated and modified in this settlement, all the existing practices, benefits and Privileges enjoined upon by the workmen shall continue to remain in force unchanged.

g) This settlement shall continue to be in force for the period of the settlement until otherwise it is terminated in accordance with law and shall continue to be in force till new settlement is arrived at in accordance with the law.

h) Every workmen shall sign a letter of acceptance annexed herewith as Annexure-A as a token of his/her acceptance to the terms & conditions of this settlement and the benefits of this settlement shall be extended to the workmen who sign the letter of acceptance annexed hereto at Annexure "A".

i) In case of any revision in salary takes place due to revision by Government over and above the increase given in this settlement, the Management agrees to give such salary increase to the workmen.

7) The Party II(2) Union states that the above settlement is linked to the productivity and in clause- (19) of the said settlement all the parties have agreed to give an increased productivity from existing 12,000/- tests/units to minimum of 14,000 tests/units in 8-hours shift.

In sub-clause (ii) it is also agreed where productivity cannot be measured directly in terms of tests/units per assembly there should be commensurate increase in number of units/kits/ /pack sixes produced to improve productivity and output.

The Party II(2) Union states that the overall wage settlement is linked to productivity and the majority workmen who are members of the Party II(2) Union are giving productivity as per the said clause(19) of the said settlement and upon fulfillment of the said productivity target the revised wages and benefits are extended to the members of Party II(2) Union.

8) The Party II(2) Union states that the settlement dated 09/08/2017 signed by Party II Company with Party II(2) Union is fair, just and proper and at that particular time the Party II (2) Union after getting the approval of all the majority workmen signed the said settlement with the Party II Company.

9) The Party II(2) Union states that the settlement signed by the Party II(2) Union with the Party II company is just fair and proper and is a valid settlement as per Section 2(p) of the I.D. Act, 1947. The said settlement has also been registered with the office of the appropriate authority.

10) The Party II(2) Union states that its Union believes in settlement of labour disputes by direct negotiations/settlement through collective bargaining as this is the best method of ensuring industrial peace and timely delivery of justice to the workmen which is the basic aim of the industrial jurisprudence.

11) The Party II(2) Union is of the opinion that the wage rise extended by the Party II company vide its settlement dated 09/08/2017 is fair, proper and reasonable considering several factors such as:

- i) Industry cum region principle.
- ii) Profits earned by the company for the last many financial years.
- iii) The financial capacity of the employer to settle the wage settlement.
- iv) Industrial peace and harmony at the work place.
- v) Meeting the requirements and needs of the workmen.
- vi) Inflation in the market, and overall prevalent circumstances.

Considering these overall factors and other necessary relevant factors, the Party II(2) Union signed a settlement dated 09/08/2017 with Party II company in the interest of its member workmen. The Party II(2) Union is of the firm opinion that the

settlement signed by the Party II(2) Union with the Party II employer is just, fair and proper and takes care of the prevalent inflation in the market.

12) With reference to the Claim Statement filed by the Party I workmen with reference to clause (1), (2), (3), (4), (5), (6), (7), (8), (9), the contents of the same are denied for want of knowledge and the Party I workmen be put to the strict proof.

It is specifically denied that the Party I Union represents the majority of the workmen as alleged. The majority of the workmen are the members of Party II(2) Union and Party II(2) Union enjoys absolute majority.

13) With reference to para 10, 11, 12, 13, 14, the contents of the same are denied being false and misleading and the Party I/Union be put to the strict proof thereof.

14) With reference to para 15, 16, 17, 18, 19, 20, 21, 22, the Party I/ Union does not wish to offer any comments.

15) With reference to para 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51 & para 52, the Party II Union does wish to offer any comments.

16) With reference to Interim Relief application filed by the Party I/Union, the Party II (2) Union wish to offer its comments as under:

a) With reference to para (1), (2), (3), (4), (5) & para 6, the Party II (2) Union does not wish to offer any comments.

b) With reference to Para 7, the Party II(2) Union specifically denies that the employer has negotiated with handpicked Union, as per its own convenience and has entered into unfair settlement or in any way favoured the management.

c) With reference to para (8), (9),(10) & para (11), the Party II (2) Union does not wish to offer any comments.

21. Without prejudice to the above, Party II(2) Union states that Party II(2) Union has negotiated with Party II company a wage settlement by holding tenacious discussions/negotiations in marathon meetings at bilateral level in presence of the representative of the workers and after prolonged and protected discussions held by the Party II(2) Union has signed a settlement under section 2(p) r/ w Section 18(1) of the I.D. Act, 1947 with the sole object of ensuring industrial peace and harmony, ensuring upward revision in the existing salaries of its member workers and by extending them several benefits, allowances and benefits under the said settlement.

22. Based on the above mentioned pleadings my Learned Predecessor has framed the Issues at Exhibit 11 and the same are as follows:

ISSUES

1. Whether the Party I proves that the Charter of Demands raised by it vide their letter dated 28/11/2016 is legal and justified?
2. Whether the Party I proves that the Party I has locus standi to raise the dispute or represent Party I workmen?
3. Whether the Party II proves that the demands raised by the Party I are liable to be rejected as the demands cannot be a subject matter of an Industrial Dispute?
4. Whether the Party II proves that the demands have been raised on part of the Company and therefore it is bad in law?
5. What Relief? What Award?

23. During the course of evidence the Party I examined its first witness Shri P. Gaonkar who is the General Secretary of the Gomantak Mazdoor Sangh and through this witness brought on record copy of letter dated 28/11/2016 by Party I at Exhibit 25, copy of letter dated 20/06/2017 by Party II at Exhibit 26, copy of letter dated 10/07/2017 by Party I at Exhibit 27, copy of letter dated 26/07/2017 by Party I at Exhibit 28, copy of letter dated 04/08/2017 by Party I at Exhibit 29, copy of settlement dated 09/08/2017 between Tulip Diagnostics (P) Ltd. and their workmen at Exhibit 30, copy of letter dated 10/08/2017 by Party I to Labour Commissioner at Exhibit 31, copy of minutes of conciliation proceedings dated 11/08/2017 at Exhibit 32, copy of letter dated 14/08/2017 by Party I at Exhibit 33, copy of letter dated 14/08/2017 by Party I to the Labour Commissioner at Exhibit 34, copy of report of failure of conciliation proceedings dated 09/10/2017 at Exhibit 35, copy of settlement dated 26/11/2012 between Party II and their workmen at Exhibit 36, copy of settlement dated 22/05/2014 between Party II and their workmen at Exhibit 37, copy of settlement dated 13/07/2015 between Geno Pharmaceuticals Ltd. and their workmen at Exhibit 38, copy of settlement dated 04/12/2015 between Indoco Remedies Ltd. and their workmen at Exhibit 39, copy of settlement dated 25/05/2016 between Betts India Pvt. Ltd. and their workmen at Exhibit 40, copy of settlement dated 30/05/2017 between Nestle India Ltd. and their workmen at Exhibit 41, copy of Appointment Letters of workers of Zephyr Biomedical at Exhibit 42 Colly, copy of Pay Slips of workers working in ZEP division for the month of April, 2016; May, 2016; June, 2016; April, 2017; May, 2017; June, 2017 and July, 2017 at

Exhibit 43 Colly, copy of Appointment Letters of workers of Orchid Biomedical Systems at Exhibit 44 Colly, copy of Pay Slips of workers working in ORC division for the month of April, 2016; June, 2016; March, 2016; April, 2017; May, 2017; June, 2017 and July, 2017 at Exhibit 45 Colly; copy of Appointment letters of workers of Qualpro Diagnostics at Exhibit 46 Colly, copy of Pay Slips of workers working in Qualpro Division for the month of April, 2016; June, 2016; March, 2016; April, 2017; May, 2017; June, 2017 and July, 2017 at Exhibit 47 Colly, copy of Article titled "How to estimate the purchasing value of the Rupee? Dated 27/02/2012 published by the Navhind Times, ET Markets (Website) at Exhibit 48 and copy of Statistics from Labour Bureau, Government of India on All India Average Consumer Price Index Numbers for Industrial Workers and Rate of Inflation in consumer Price Index Numbers for industrial Workers for the year 2017 at Exhibit 49 Colly. During cross-examination of this witness the documents brought on record were a copy of Affidavit/Pg. 98 dated 27/01/2017 at Exhibit 61, a copy of the letter dated 03/04/2008 submitted by the witness to the Management to show his majority at Exhibit 62-D Colly, copy of letter dated 14/06/2017 made to the Party II along with the list of the members at Exhibit 63-D Colly.

24. The Party I examined its second witness Shri Prakash Naik and during his cross-examination brought on record the copy of Confirmation Letter of the worker dated 10/11/2014 and Promotion Letter dated 11/03/2011 at Exhibit 66-Colly.

25. The Party II examined its witness Mrs. Sharmila Nadkarni working as an Assistant General Manager of Tulip Diagnostics Pvt. Ltd. and through this witness brought on record copy of Memorandum of Settlement dated 23/02/2008 at Exhibit 69, copy of Memorandum of Settlement dated 24/01/2011 at Exhibit 70, copy of Memorandum of Settlement dated 22/05/2014 at Exhibit 71, copy of Memorandum of Settlement dated 10/06/2014 at Exhibit 72, copy of Memorandum of Settlement dated 09/08/2017 at Exhibit 73, copy of Memorandum of Settlement dated 22/07/2021 at Exhibit 74, copy of Minutes of the meeting of the Partners of M/s Orchid Biomedical Systems dated 25/01/2017 at Exhibit 75, copy of Pay Slip for the month of April, 2017 before signing of the Settlement at Exhibit 76, copy of settlement showing year wise increase in salary/emoluments at Exhibit 77, copy of Notice dated 30th January, 2017 at Exhibit 78, copy of letter dated 07/10/2017 sent to Dy. Labour Commissioner at Exhibit 79, copy of notice dated 15/09/2017 displayed on the Notice Board at Exhibit

80, copy of letter dated 19/01/2018 sent to Asst. Labour Commissioner at Exhibit 81, copy of letter dated 11/06/2018 sent to Asst. Labour Commissioner at Exhibit 82, copy of Writ Petition No.1058/19 filed by workmen/Party I with regard to challenge of Award rejecting interim relief at Exhibit 83 and copies of 3 declaration of workmen who have accepted settlement dated 09/08/2017 at Exhibit 84 Colly. During cross-examination a copy of the document showing that the salary was given as per Exh.73 from August 2017 was brought on record at Exhibit 86-D, a copy of the declarations signed by the members of GMS (14 declarations) at Exhibit 87-D, and a copy of the Notification of Government of Goa dated 24/05/2016 at Exhibit 89-D.

26. Heard arguments. Learned Advocate Shri S. P. Gaonkar argued on behalf of Party I and Learned Advocate Shri M. S. Bandodkar argued on behalf of the Party II(1) and Adv. Shri Suhaas Naik argued on behalf of Party II(2). Both the Parties have placed on record written submissions.

27. I have gone through the records of the case and have duly considered the arguments advanced and also the arguments placed on record and after going through the same, I have given my reasons and findings on the issues which are framed and the same are as follows:

- Issue No.1 ... Negative.
- Issue No. 3 & 4 ... Affirmative.
- Issue No. 2 ... Negative.
- Issue No. 5 ... As per the Final Order.

REASONS

Issue No. 1, 3 and 4

28. Issue No. 1, 3 and 4 are discussed together for the sake of convenience and also as they are interconnected inspite of being the fact that the burden of Issue No. 1 is on Party I, and the burden of Issue No. 3 and 4 is on Party II(1) to be proved because if Issue No.1 is answered in the negative, then automatically issue No. 3 and 4 have to be answered in the affirmative and therefore they are taken up for discussion together.

29. The Workmen have examined Shri P. Gaonkar who is the General Secretary of Gomantak Mazdoor Sangh and he represents the workers in the reference i.e. Party I and Shri Prakash Naik as the second witness of Party I. The Employer/Party II(1) has examined Smt. Sharmila Nadkarni, working as an Assistant General Manager of Tulip Diagnostics Pvt. Ltd. as their first witness after which they closed their case.

30. It is the contention and the case of Party I that M/s Tulip Diagnostics Pvt. Ltd. is the Company which owns the Employer/Party II along with the other independent Factories and establishments namely; Orchid Biomedicals and Zephyr Biomedicals and they are engaged in the manufacturing of pharmaceutical products and it is an health industry and it manufactures one-step membrane and elisa based tests for fertility, infectious disease and parasitology. A settlement dated 22/05/2014 was entered into by the Party I with the workmen represented by a Trade Union namely Bhartiya Kamgar Sena u/s 2 (p) of the Industrial Disputes Act, 1947 and on 28/11/2016 the Party I raised a Charter of Demand and also gave a notice of intention to terminate the existing settlement dated 22/05/2014. In support of their case, the Party I has placed on record various documents from Exhibit 25 to 49 Colly and I have perused all these documents in deciding the instant case.

31. The Party I vide their Charter of Demand dated 28/11/2016 gave notice of intention to terminate the existing settlement dated 22/05/2014 to which, the Party II(1) sent a reply dated 20/06/2017 stating that the GMS could not have raised the said Charter of Demand since it does not have the majority and that the Goa Trade and Commercial Workers' Union who is Party II(2) enjoyed the majority. This is the major dispute between the Parties to their present reference. From the evidence and the documents on record, it is seen that the settlement dated 22/05/2014 and 10/06/2014 is not validly terminated and that all the workmen of Tulip Diagnostics Pvt. Ltd. including the members of Party I signed the settlement dated 22/05/2014 and 10/06/2014 after signing the Requisite Declaration. The settlement was signed for a period of three years and three months i.e. 01/01/2014 to 31/03/2017 and the terms of the said settlement were binding on all the Parties to the settlement as a settlement can be validly terminated by giving a written notice of two months prior to the expiry date mentioned in the settlement, secondly by giving a clear intention to terminate the settlement and thirdly by giving a notice by a Party representing the majority of persons bound by the said settlement. This is the necessity u/s 19(2) of the Industrial Disputes Act as it is mandatory for the Union to terminate the settlement in the prescribed manner. That, u/s 19(7) of the Industrial Disputes Act postulates that before raising any demands, only the majority Union has to terminate the existing settlement u/s 19(2) of the Industrial Disputes Act.

32. Learned Advocate Shri M. S. Bandedkar for Party II(1) has placed reliance on the authority reported in the case of **Sindhu Resettlement Corporation Ltd. and Industrial Tribunal, Gujarat and others (1968) 1 LLJ**, the Hon'ble Apex Court has held that a *mere demand to a Government without a dispute being raised by the workmen with their Employer cannot become an industrial dispute and such a dispute will not be a genuine dispute raised on behalf of the workmen and would not constitute an 'industrial dispute'*.

33. It is seen that the Employer used to run its manufacturing activities under various names such as Orchid, Zephyr, Qualpro and others. They were individual partnership concerns but all were under the Management of M/s Tulip Diagnostics Pvt. Ltd. which is the employer for all purposes and different Trade Unions had been operated in the units of the Employer over the years and there has never been any majority Union till dated. This can be seen from settlements at Exh. 70 which was with Orchid, Qualpro and Zephyr Verna Employees Union and Exh. 71 which was with another Union namely; Bhartiya Kamgar Sena. From the evidence it is clear that the true Employer is and was Tulip diagnostics Pvt. Ltd. and it used to manage its production in its different units/divisions namely Orchid, Qualpro, Zephyr etc. The clear indication of this position comes from the fact that the individual workmen who had signed the settlement at Exh.70 were employed in either Orchid, Zephyr or Qualpro. For example, Custodio Lucas, Chandrashekar Shirodkar and Dulo Naik were with Zephyr and Prasad Chanekar and Vishal Naik were employed at Orchid. All of them had signed the settlement dated 24/01/2011 which governed the service conditions in the Party II(1) Company at the relevant time. This settlement dated 24/01/2011 was never terminated by the Employer in accordance with Section 19 of the Act and the Party I on the other hand did not have any obligation. To terminate this settlement as Gomantak Mazdoor Sangh was not a Party to this settlement. It is submitted that under Section 19 only 'Parties' have the onus to terminate the settlement and not non-Parties.

34. It is the contention of the Party I that by letter dated 28/11/2016 at Exh.25, the Party I/Union had raised Charter of Demands on the Employer and by this letter, the Union had asked the Management to have a discussion on wage revision and that there was also an intention to terminate previous settlement dated 22/05/2014 with Bharatiya Kamgar Sena. This Charter of demand was not responded to either by any of the individual divisions like Orchid, Qualpro or Zephyr and also

by Tulip diagnostics Pvt. Ltd. In January, 2017, the Employer had merged all its divisions into Tulip Diagnostics Pvt. Ltd. and Exh.78 is a Notice dated 30/01/2017 showing that w.e.f. 01/02/2017 all individual Units including Orchid, Zephyr and Qualpro were transferred to Tulip Diagnostics Pvt. Ltd. It is further contended that it is Employer's own case that the previous settlements have already been terminated.

35. It is the contention of the Party I/Union that the demands raised by the Union are the need of the hour for all the workers in the establishment and if an Award is made by this Tribunal accepting the Charter of Demands dated 28/11/2016, it will be applicable to all the workers and that under Section 18(3) of the Act, an Award made by the Tribunal is binding on under Clause (a) on all the parties and under Clause (d) on all the workmen employed at the establishment. It is further contended that there is an urgent need to revise and standardize the wages in the establishment and this is so because the purchasing power of the wages currently being received has drastically fallen during the relevant period for which the Party I Union wanted the Employer to consider the demands i.e. 2017 to 2020. The All India Consumer Price Index (AICPI) has shown exponential increase during this period and the index numbers (Base 1960=100) have increased from 6262 in the beginning of 2017 to 7845 in the end of 2020 which means the AICPI has increased by 25.7% points for the relevant period which itself is enough reason to seek the wage revision.

36. The law regarding wage-fixation has been settled and the principles pronounced by the Hon'ble Supreme Court will have to be followed by the Tribunal. The Hon'ble Supreme Court has reiterated these well settled principles in **Hindustan Antibiotics Ltd. V/s Workmen (1967) 1 SCR 652** at Para 9 which is as under:

"9. At the outset, it will be convenient to consider the question of principle. The object of industrial law is two-fold, namely, (i) to improve the service conditions of industrial labour so as to provide them the ordinary amenities of life, and (ii) by that process, to bring about industrial peace which would in its turn accelerate productive activity of the country resulting in its prosperity. The prosperity of the Country, in its turn, helps to improve the conditions of labour. By this process, it is hoped that the standard of life of the labour can be progressively raised from the stage of minimum wage, passing through need found wage, fair wage, to living wage. Industrial adjudication reflected in the judgments of tribunals and the Courts have evolved some principles governing wage fixation

though accidentally they related only to industries born in the private sector. The principle of region-cum-industry, the doctrine that the minimum wage is to be assured to the labour irrespective of the capacity of the industry to bear the expenditure in that regard, the concept that fair wage is linked with the capacity of the industry, the rule of relevancy of comparable concerns, and the recognition of the totality of the basic wage and dearness allowance that should be borne in mind in the fixation of wage structure, are all so well settled and recognized by industrial adjudication that further elaboration is unnecessary.

37. And to this it is seen that Exhibit 25 does not specifically indicate the Union's intention to terminate the earlier settlement dated 22/05/2014. It only mentions that its members have passed a resolution to terminate the Settlement where it is mentioned "I say that no Resolution was passed" which indicates that Shri P. Gaonkar was not authorized to even raise the Charter of Demands on 28/11/2016 and that in the absence of the clear intention to terminate the earlier settlement and absence of the resolution which could have proved the same, an adverse inference must be drawn as against the Party I and it must be held that the earlier settlements have not been terminated. There is no documentary evidenceto show that any Demand or termination was ever raised on Tulip Diagnostics (P) Ltd. and/or Party II(1).

38. From the evidence on record it is seen that divisions as sought to be created and mentioned in the Statement of Claim by Party I, the same is a figment of imagination of Party I. Since no division exists as mentioned by Party I and having raised the demand in that way, the demand ought to be rejected. It was also informed to Party I that they were the minority and that the Union representing the majority has submitted their Charter of Demands. The Party I Union vide communication dated 10/07/2017 submitted that Tulip has forcefully entered the names of the workers represented by Party I on the Rolls of the new Company and in the absence of a Tripartite Agreement, they cannot be termed as workers of the newly formed Company.

39. Now coming to the evidence of Shri P. Gaonkar on behalf of the Party I Union and it is seen that his cross-examination has been miserably shaken on all material grounds which is evident from his deposition. He could not depose to the questions asked vis-à-vis his documents and this becomes clear from his entire cross-examination. He has admitted in cross that he has not produced nor there is any document to show that he is the General

Secretary of Gomantak Mazdoor Sangh and he has signed the Claim Statement. His clarification on this point that the General Secretary is elected at the General Body of the Union in the meeting and as such this document is not available to him cannot be accepted.

40. Further, he has admitted that Party II is manufacturing and marketing in vitro diagnostic re-agent kits and instruments and also admitted that he has not denied this statement in his Rejoinder. Further, he has admitted that and the same is as follows which admissions are relevant to decide the present reference:

- 1 Party II(1) presently has three divisions and the reference has come of one individual Factory as at that time these were separate Factories and subsequently they were merged in one.
2. It is true that on his Affidavit-in-Evidence at Page-98 Para-9 it is agreed and mentioned that after the closing date, each partnership entity shall operate as a division of Tulip Diagnostic Pvt. Ltd. under the name and style of Erstwhile Partnership Entity.
3. It is true that I have not filed the Resolution dated 27/11/2016 stating that the workers have resolved to terminate the settlement dated 22/05/2014.
4. It is true that I did not send the copy of the Resolution to the Company but I have sent a letter informing the Company about it and further stated that the letter at Exh. 25 does not mention anywhere the names of the workers which are according to the names of the Union.
5. It is true that the expiry is mentioned to be dated 31/03/2017 and the Resolution is dated 27/11/2016 which is four months earlier.
6. It is true that after submitting the Charter of Demands, the Company sent me a letter dated 20/06/2017 stating that Firms like Zephyr Biomedicals, Orchid Biomedical Systems, Qualpro Diagnostics, Coral Clinical Systems, there are no employees and all employees have joined Tulip Diagnostics.
7. I have not produced any documents to show that our Union is a majority Union before this Tribunal to show my majority but the documents were submitted to the Management.

8. He has admitted that vide letter dated 20/06/2017, the Company had informed him that there is only Company by name Tulip Diagnostics Pvt. Ltd. and all these partnership companies are merged into that Company.
9. I do not exactly remember whether I had raised the dispute before the Authority regarding the change in service conditions and further admitted that he has not informed the Appropriate Authority as according to him it is not required and further admitted that he did not approach the Labour Commissioner for taking secret ballots to show their majority.
10. That the last two Paras of Exh. 29 which is a copy of the letter dated 04/08/2017 made by Party I that they wanted the Company should sign settlement with the majority Union and he was aware that at that time there was one more Union existing by name Goa Trade & Commercial Workers Union represented by Shri Christopher Fonseca.
11. It is true that till date any Orders passed by this Tribunal or by the Hon'ble High Court, they have not mentioned anywhere that the settlement dated 09/08/2017 is unfair and not reasonable and further admitted that he has not challenged independently before any Authority that the settlement dated 09/08/2017 is unfair and unreasonable and has further admitted that he has not calculated as to how much money the said 18 workers lost for not accepting the settlement dated 09/08/2017 at Exh. 84 Colly.
12. It is true that on Exh. 62-D Colly and 63-D Colly which were produced in cross which are the documents related to show his majority that he produced both these documents in cross for the first time before this Court and Exh. 62-D Colly is not addressed to the Management but it is addressed to the General Secretary, GMS, Ponda-Goa.
13. It is true that on Exh. 62-D Colly it is mentioned that the workers would like to join the Union and further admitted that there was no acknowledgement on Exh. 62-D Colly that it has been acknowledged by the General Secretary of the Union and according to him their Union is not in the habit of issuing acknowledgement slips which explanation is not satisfactory to my mind.
14. It is true that no membership receipts are enclosed to Exh. 62-D Colly.
15. It is true that Party I did not produce the copy of the Resolution before this Tribunal seeking to raise the demand on the Management and also admitted that there are no pleadings to the effect that the settlement which is signed with Party II(2) is malafide, fraud, corrupt or any other inducement to sign the settlement.
16. It is true that on Exh. 63-D Colly, all the divisions mentioned in the said letter were known as Tulip Diagnostics Ltd. and that they were merged into Tulip Diagnostics Ltd.
17. It is true that he does not know if the said Company has signed four settlement dates apart from the Settlement dated 09/08/2017 and further admitted that no settlements were signed with him and all the settlement dates were accepted by his members without any reservations.
18. It is true that I have not produced the Membership Register of the workers/Union and he stated that he has produced the names of the list of the members.
19. He admitted that he does not know how many workers have accepted the Settlement dated 09/08/2017 as of today.
20. He admitted that he does not remember about the settlement dated 09/08/2017 signed with the Party II(2).
21. It is true that I have not produced Minutes of the General Body Meeting dated 13/08/2017 before this Tribunal and further admitted that nothing has been stated with regard to the Settlement dated 09/08/2017 signed with the Party II(2) and the Company inspite there being two complaints.
22. He further admitted that the document which he has produced at Exh. 63-D Colly and 2013 Settlement was signed with individual Company and it was three different settlements signed with three Companies.
23. It is true that it is not mentioned by him anywhere in the Failure Report the settlement signed by Party II(1) and the Union is by, coercion, duress and false promises, fraud, corruption and other inducements given to the workers.
24. It is true that what product is manufactured by Party II(1)/Qualpro is not manufactured by the Geno Pharmaceuticals and further admitted that he has not produced the Balance Sheet and Profit and Loss of Geno Pharmaceuticals and also admitted that the Balance Sheet records shows the financial position of the Company.

25. It is true that except the settlement at Exh.38, I have not produced any document to show comparison between Geno Pharmaceuticals and Party II(1) and that the Grades and Pay-Scales as mentioned on Exh. 38 is not the same as mentioned on Exh. 30.
26. I do not know the exact dates of the settlements made by Party II(1) but it would be around three or more.
27. It is correct that I have signed the Settlement without VDA in Funscool, but in lieu of VDA and DA. He also admitted further that he does not know if any declaration is signed accepting the Settlement by all other workmen except 19 workmen and further stated that he does not know if both the above settlements are kept open to all the workmen including the 19 workmen.
28. He admitted that by not accepting the settlements dated 09/08/2017 and 22/07/2021, the workers have not suffered monetarily and also admitted that he has not made any mention in his Reply filed before the Tribunal that the new settlement is unfair and unreasonable.
29. He also admitted that in the Claim Statement, there are no allegations that the Party II(2) is handpicked Union which was otherwise stated by this witness.

41. Hence, from the above admissions of the first witness of the Party I, it is abundantly clear that the Charter of Demands was not raised with the actual Employer and it was not raised even before Tulip Diagnostics as the entire reference does not show that the dispute is between the Party I Union and the Qualpro Diagnostic Systems. Infact Qualpro Diagnostic Systems did not exist as on 31/01/2017. Hence it is clear that the demand was not raised by the workmen not there is anything on record to show that the said demands were fair, genuine and justified and the dispute in question does not seem to be a real and a substantial one and it is not espoused by the majority workers of the Party II(1). Hence, it cannot be stated that the demand was raised by the workmen of the Party II(1) as the majority of the workmen have accepted the said settlement except the 19 workmen who are in minority.

42. Further, it is seen that all the workmen of Tulip Diagnostics Pvt. Ltd. including the members of Party I have signed and accepted the two settlements dated 22/05/2014 and 10/06/2014 after signing the Requisite Declaration. Both these

settlements are not validly terminated by following the strict principles and provisions of Section 19(2) of the Industrial Disputes Act wherein it is mandatory for the Union to terminate the settlement in the prescribed manner and above all, Section 19(7) of the Industrial Disputes Act mandates that before raising any demands, only the majority union has to terminate the existing settlement under 19(2) of the Industrial Disputes Act which is not so in this case.

43. The evidence on record shows that the workers/the members of the Party I Union in the year 2016 when the demands were raised as the Failure Report dated 09/10/2017 at Exh. 35 does not show or prove that the General Secretary had furnished it to the Dy. Labour Commissioner proving his majority prior to the Failure Report and the Party II(1) Company was informed about any majority of the workers had joined the Union prior to raising the Charter of Demands. Hence, it clearly proves that in the year 2016, these workmen were not the members of Party I Union.

44. At this juncture, reliance is placed in the Authority reported in the case of **Sindhu Resettlement Corporation Ltd. and Industrial Tribunal, Gujarat 1968 (1) LLJ 834** and in the case of **Workmen of Dimakuchi Tea Estate V/s Dimakuchi Tea Estate 1958 SCR 1156** that **an industrial dispute, as defined, must be a dispute between employers and employees, employers and workmen, workmen and workmen** and according to Party II(1) since in the case in hand there is nothing to indicate that the workmen had espoused the dispute, hence, I come to the conclusion that Shri P. Gaonkar had no authority on behalf of the workmen/Party I Union.

45. The evidence also shows that there are no documents to show that the letters at Exh. 62-D Colly and 63-D Colly were received by the Gomantak Mazdoor Sangh and moreover Shri P. Gaonkar has admitted that he has not produced any list of workers at the time of raising Charter of Demands, nor at the time of filing the Claim Statement before this Tribunal nor at the time of his evidence and above all Shri P. Gaonkar has admitted that he has not produced any documents to show that he is the General Secretary of the said Party I Union. The admissions made by Shri P. Gaonkar conclusively proves that no Resolution was ever taken by the workmen authorizing the Gomantak Mazdoor Sangh and Shri P. Gaonkar as its General Secretary to raise the dispute and so also to indicate that the workmen joined the Gomantak Mazdoor Sangh. This is more clear on the admission of Shri. P. Gaonkar

that there was no Resolution passed nor he was authorized to raise the Charter of Demands on 28/11/2016. No efforts were taken by the Party I Union even during the examination of their second witness to produce the Resolution which clearly proves that there was no Resolution passed to raise the Charter of Demands and as such the demand which was raised dated 28/11/2016 is therefore held to be bad in law.

46. The Party I failed to produce the evidence to show that the letters dated 03/04/2008, 10/08/2015 and 10/12/2016 were received by the Gomantak Mazdoor Sangh prior to writing letter dated 28/11/2016 and Shri P. Gaonkar failed to give the dates on which they received these above letters. Hence, all this goes to show that only 19 workmen have not admitted the said settlement and the evidence of Shri Prakash Naik corroborates the same who has stated in his cross that "it is true that the settlement dated 09/08/2017 is accepted by 19 workmen".

47. It is also seen that the Party II(1) have signed a Comprehensive Settlement with the Goa Trade and Commercial Workers' Union on their Charter of Demand dated 22/02/2017 which is admittedly a majority Union and the said settlement was signed on 09/08/2017 and was accepted by majority Union without any exceptions by all the establishments of Party II(1) at Verna Industrial Estate which settlement is fair and reasonable and legal.

48. It is amply clear that Party II(1) has a majority Union more than two third of workmen namely of Party II(2) with whom the Party II(1) Company have signed comprehensive settlement dated 09/08/2017 arising out of the Charter of Demands dated 22/02/2017 covering all the demands as made by Party I and this settlement was also offered to the members of the Party I Union but they chose to refuse and accept the said settlement. It is a settled law that settlement of labour disputes by direct negotiation and collective bargaining is always to be preferred for it is the best guarantee of industrial peace which is the aim of all legislations for settlement of labour disputes. It may not be always possible or necessary that such a settlement is arrived at in the course of conciliation proceedings which may be the first step towards resolving the industrial dispute which may be lingering between the Employers and their workmen represented by their Unions but even if at that stage such settlement does not take place and the industrial dispute gets referred for adjudication, even pending such disputes, the Parties can arrive at an amicable settlement which may be binding on the Parties to

the settlement unlike settlement arrived at during conciliation proceedings which may be binding not only on the Parties to the settlement but even to the entire labour force working in the concerned organization even though they may not be members of the Union which might have entered into settlement during conciliation proceedings.

49. Learned Advocate Shri M. S. Bandodkar for Party II(1) relied on the following authorities.

1. **Tata Iron and Steel Company Limited V/s State of Jharkhand and others reported in Supreme Court(2014) I SCC536** wherein the Hon'ble Apex Court has held that the Industrial Tribunal/Labour Court constituted under the Industrial Disputes Act is a creature of that statute. It acquires jurisdiction on the basis of reference made to it. The Tribunal has to confine itself within the scope of the subject matter of reference and cannot travel beyond the same. It is for this reason that it becomes the bounden duty of the appropriate Government to make the reference appropriately which is reflective of the real/exact nature of "dispute" between the parties.
2. **Central Bank Employee's Union & Ors V/s Central Bank of India & Ors. reported in the Hon'ble Bombay High Court W.P No. 1293 of 1990 dated 14/06/1994** has held it is well settled by various decisions of the Supreme Court of India that even if the settlement hurts some persons the totality is required to be seen and if the settlement is in the large interest of the employees and in pursuance of the managerial function, then the said settlement should not be disturbed under Article 226 of the Constitution. The sequence of events indicate that the impugned settlement merely provided on additional avenue whereby stenos in the main-stream were given an opportunity. If they so desire, to opt for the steno officers post by a particular date. This was in view of the fact that the post of steno officers was created prior to 1990 and since vacancies arose in the said category an additional option was given by the Bank to the stenos to join by a particular date. If they so desire from the general category to the specialist category. In the above circumstances, there is no merit in the contention advanced on behalf of the petitioners that the Agreement was arbitrary and violation of Articles 14 and 16 of the Constitution.

3. **Gujarat Mineral Development Corporation Employee's Union v/s G.M.D Corporation reported in the Hon'ble Gujarat High Court 2001 LLR 346** wherein the Hon'ble High Court has held it is required to be noted that under the Industrial Disputes Act, the settlements and awards are binding on the persons as provided for by Section 18 of the Act. Section 19 of the Act refers to the period of operation of settlements and awards. The scheme of Section 19 appears to be that the settlements and awards shall be binding on the parties as per the memorandum of settlement. The date of operation and the period till which the settlement shall continue to bind the parties is indicated in Section 19. Therefore, when there is a settlement for a limited period, the same shall bind the parties for that limited period and further held that it is well known that under the Industrial Disputes Act, the parties are entering into an agreement. Under Section 2(p) of the Act for a period which might have been mentioned in the agreement and if the period is mentioned, then the parties would bind themselves to act according to the terms of the agreement for a limited period as mentioned. After expiry of the said period, the contract is extinguished. It is open for the parties to enter into agreement for further period. It depends on the bargaining factor and both sides will consider their own interest and will arrive at a binding decision.
4. **Mangalore Ganesh Beedi Works (represented by its Partners), Mysore v/s Workmen (represented by Secretary, Mangalore Ganesh Beedi Workers and Allied Beedi Factories Workers Association), Mysore reported in the Hon'ble High Court of Judicature at Karnataka 2004 (3)L.L.N. 696** wherein the Hon'ble High Court has held that it is well settled that the court is not entitled to scan a settlement in bits and pieces and hold some parts not or not so good for workmen. The court should look at settlement as a whole, unless it can be demonstrated that the objectionable portion is such that it completely outweighs all the other advantage gained the Court should be slow to hold a settlement as unfair and unjust. The burden of proof that the terms of settlement are unfair or unreasonable lies on the respondent-union and not on the management. It is so because, settlements are accepted by vast majority of workmen and they have received the benefits and advantages of the settlement without any demur and protest. The majority of workmen have also not complained to the Industrial Tribunal against the terms of settlement. In the context, it is reasonable to presume that the terms of the settlement are fair, reasonable and amicable to the workmen concerned. If the respondent-union contests such a presumption, it is for the respondent-union to lead evidence to show that the settlements are fair and unreasonable or they were entered into between the parties for some extraneous considerations and not in the interest of the workmen concerned.
5. **Air India Employees Guild, Mumbai v/s Air India, Ltd. Mumbai, and others reported in the Hon'ble High Court of Judicature at Bombay Writ Petitions Nos. 2544 of 2004 and 1452 of 2005 dated 21/12/2006** wherein the employer and Unions in the industry which accept the Code of Discipline have to follow the method of verification of membership as laid down therein. Once the procedure is accepted, it is not open to any of the parties who agree to abide by the code of Discipline to seek a procedure different from the procedure agreed. The code of Discipline admittedly does not provide for deciding who has the majority of membership, by holding secret ballot.
6. **Deepak Industrial, Ltd., and another v/s State of West Bengal and others reported in the Hon'ble High Court of Judicature at Calcutta Appeal against Original Order No. 271 of 1972 dated 11/10/1974** held that the amended S, 2A of the Industrial Disputes Act, makes it clear that when an individual dispute is not sponsored by other workmen or espoused by the Union of the workmen even then it would be deemed to be an industrial dispute within the meaning of the Act. In spite of the said amendment which brings in individual dispute within the scope of the Act it has not made any difference on the principles as to what would constitute an industrial dispute within the meaning of the Industrial Disputes Act. If it is an industrial dispute, that is a dispute raised by an individual, it must be raised by him and reference may be made in due course for adjudication under the said Act. On the other hand, if a group of workmen raised a dispute that can also constitute an industrial dispute within the meaning of the Act which may be referred to the Tribunal; in due course. But when the dispute is espoused

or sponsored by a union judicial decisions have uniformly held, that when the authority of the union is challenged by the employer, it must be proved by production of material evidence.

7. **Tata Engineering and Locomotive Company Limited V/s Their Workmen, reporting in the Hon'ble Supreme Court (1981) 4 SCC** wherein the Apex Court has held that "a settlement cannot be weighed in any golden scales and the question whether it is just and fair has to be answered on the basis of principles different from those which come into play when an industrial dispute is under adjudication. If the settlement had been arrived at by a vast majority of the concerned workmen with their eyes open and was also accepted by them in its totality, it must be presumed to be just and fair and not liable to be ignored while deciding the reference merely because a small number of workers were not parties to it or refused to accept it, or because the Tribunal was of the opinion that the workers deserved marginally higher emoluments than they themselves thought they did."

50. I have perused all the above authorities in deciding the present case and the ratios applied in all the above cases gets squarely attracted to the facts of the present case.

51. Now coming to the second witness examined by the Party I who is Shri Prakash Naik and he has mentioned in his Affidavit-in-Evidence that he is the employee of Tulip Diagnostics Pvt. Ltd. and presently he is working in M/s Orchid Biomedical Systems as a Production Assistant and according to him M/s Tulip Diagnostics (P) Ltd. is the Company which owns the Employer/Party II(1) along with other independent factories, establishments namely, Qualpro Diagnostics and Zephyr Biomedical which are engaged in one business as one single entity though located in the Verna Industrial Estate in separate and independent premises and all the details of the Party I's case and in his cross, he has clearly stated that the Party II(1) is engaged in the manufacturing of malaria test, pregnancy test and now rapid antigen test for Covid-19 and Party II(1) is not engaged in the manufacturing of pharmaceutical products. He has admitted in cross that Qualpro, Zephyr and Orchid Biomedical Systems have merged and have become one Company i.e. Tulip Diagnostic (P) Ltd and this merge took place in the year 2007. He is aware of all the five settlements which took place out of Charter of Demands and he has admitted that none of the

above five settlements were made with Gomantak Mazdoor Sangh Trade Union. He has admitted that he has not accepted the settlements dated 2017 and 2021 and both these settlements were offered to him for acceptance. This goes to show that both the settlements were made open and available to all the workmen of Party II(1) Employees including the Party I workmen. He has further admitted that:

1. It is true that the settlement dated 23/02/2008 was accepted by all the workmen including me.
2. It is true that all the workmen of all establishments of the Company at Verna has accepted the settlements dated 24/01/2011, 22/05/2014 and 10/06/2014.
3. It is correct that all these four settlements were accepted by the workmen including me without any objections.
4. It is correct that all these settlements have been signed by the Internal Committee and the Internal Union and thereafter with the Goa Trade and Commercial Workers' Union and he has also admitted further that it is correct that the structure-wise settlements signed with the Union were same.
5. It is correct that in this matter we have not filed any documents showing the membership of the Gomantak Mazdoor Sangh in connection with the workers.
6. It is true that from the documents which are produced by me before this Court, it is not possible to come to the conclusion that their Union Gomantak Mazdoor Sangh is majority or minority and also admitted that the settlement dated 09/08/2017 is not accepted by 19 workmen. He could not answer as to who are the said 19 workmen who had not signed the settlement dated 09/08/2017 as he stated that he is not aware.
7. It is true that in my Affidavit-in-Evidence I have not mentioned as to the number of membership of the Gomantak Mazdoor Sangh including myself and further admitted that a Notice was also displayed stating that the workmen should accept the settlement dated 22/07/2021 by signing the declaration and the contents of this settlement were read over and explained to them by the Management.
8. He further admitted that I say that I have signed the declaration for accepting the settlement dated 22/07/2021 and while giving this declaration he put certain conditions before the Company for accepting the

- settlement but as the Company did not accept the conditions put forth by him, he could not get any benefits from the Settlement dated 22/07/2021.
9. It is true that except 19 workmen, all other workmen signed the declaration unconditionally and accepted the settlement dated 22/07/2021 in toto.
 10. He further admitted that it is correct that by the earlier settlement dated 09/08/2017, the workers got the benefit around Rs. 9,000/- to Rs. 10,000/-. It is correct that new settlement which has been signed in 2021, the workers got the benefit of around Rs.11,000/- to Rs.12,000/-. It is correct that both the settlements have been accepted by majority of the workmen. It is correct that majority of the workers are members of both the Unions. It is correct that both the settlements have been accepted by the Members of Gomantak Mazdoor Sangh also in toto.
 11. It is true that by not accepting both the settlements dated 09/08/2017 and 22/07/2021, I suffered a monetary loss of Rs. 20,000/- and by not accepting both these settlements, the monetary loss is a very bad thing that happened to me.
 12. It is correct that after knowing that settlement dated 09/08/2017 has been signed by Party II(2) thereafter only our union wrote a letter to Dy. Labour Commissioner on the next day. It is correct that the Union has sent only the letter dated 10/08/2017 which is at exh. 31. It is correct that with this letter the Union did not enclose any document showing majority of Gomantak Mazdoor Sangh and that Exh. 31 does not indicate anywhere in the Failure Report that the list of the majority was filed before the Conciliation Officer. It is correct that after signing the settlement with the Goa Trade and Commercial Workers' Union, the matter was admitted in conciliation on 10/08/2017. It is correct that thereafter we gave a letter dated 14/08/2017 to the Management which is at Exh. 33 and that we had given the letter in July, 2017. It is true that I have not produced this letter of July, 2017 before this Court.
 13. I do not know what action was taken by the Dy. Labour Commissioner on the Management made on our complaint. Thereafter, the Dy. Labour Commissioner sent the Failure Report to the Government.
 14. We have never raised any objection for Bhartiya Kamgar Sena and Internal Unions when they signed settlement with the Company. I have not produced letter dated 28/11/2016 sent to the Management.
 15. It is true that the Management wrote a letter dated 20/06/2017 to us stating that we had no majority in the Union.
 16. It is true that at that time the total workmen employed were around 310 in the entire three establishments/total group in the said Company. We had sent a letter informing our strength of the workmen along with the names to the Dy. Labour Commissioner but not to the Management. It is true that it was brought to our notice that we were having thin minority by the Management.
 17. It is true that the proceedings before the Dy. Labour Commissioner ended in a Failure Report.
 18. It is true that though we had made a complaint before the Dy. Labour Commissioner that the Management was following unfair labour practices, but I do not know what action was taken by the Dy. Labour Commissioner on the Management on these allegations. The local Committee of our Union was formed after the settlement dated 09/08/2017 was signed with Goa Trade and Commercial Workers' Union.
 19. It is true that all the settlements till date signed with the different Unions have the same structural features. It is true that the category of all the workers is the same which is semi-skilled workers. We did not make any representation to the Company alleging that there was disparity between the salaries of newcomers and old workers which caused discontentment between the workers.
 20. It is true that in the present reference we had filed an application for Interim Relief and the same was dismissed. It is true that the settlement dated 09/08/2017 was signed with the Goa Trade and Commercial Workers' Union accepted by all the workmen except 19 workmen. It is true that the settlement dated 22/07/2021 signed with the Goa Trade and Commercial Workers' Union has been also accepted by all the workmen except 19 workmen.
 21. It is true that old workers are getting more salary and the new ones are getting less salary. We have not written any letter to the Company

showing the disparity between the salaries of the new comers and old workers causing greater discontentment between the workers. It is correct that the settlement signed with the Goa Trade and Commercial Workers' Union the FDA is given.

22. It is true that in the settlement signed on 10/06/2014, the basic salary is increased every year. In the settlement dated 09/08/2017 also basic salary is increased every year. It is true that FDA is also increased by Rs. 650/-.
23. It is correct that in this settlement the workers have agreed to increase the productivity from 12,000 to 14,000 units. I have produced two settlements of Indoco and Geno which are both pharma companies.
24. It is true that whether a workman is skilled, semi-skilled or unskilled is a decision of the Management. We get the bonus @ 20% as per the Payment of Bonus Act. It is true that contract workers are being paid minimum wages as per the Act.
25. It is true that my present salary is Rs.15,497/- is because I have not accepted the settlements dated 09/08/2017 and 21/07/2021. It is true that all the contract workers are paid minimum wages independent of the years of service.
26. It is true that presently all the workers are working in peace and harmony in the Factory. It is true that only 19 workers have not accepted both the settlements as mentioned above.

52. Learned Adv. Shri S. P. Gaonkar has placed reliance on the following authorities:

1. **Transport Corporation of India Ltd. V/s MRMT & G. K. Union, 2002 (3) LLJ 835** wherein the Hon'ble Bombay High Court observed as under while explaining the Apex Court's decision in Kamani Steel Metals Ltd. "9. The Apex Court in **Kamani Steel Metal** (supra) has while rejecting the submission of the Employer that there was no change of circumstance justifying a revision of wages, pay scales or dearness allowance observed that judicial notice must be taken of the fact that commodity prices have soared high, the general level of wages has gone up and in some industries there have been two or three revisions already and in some others Wage Boards have been appointed while adjudicating a wage reference. I has further observed that if inspite of these factors there

has been no upward revision in the Company, the demand would be justified. Therefore, it is obvious that while adjudicating the reference, the Tribunal was required to keep certain principles which the Apex Court has laid down in the forefront and to consider the fact that upward revision in wages must be given if the circumstances so warrant. The Apex Court has held in a number of cases that the Industrial Tribunal must strive to endeavor to see that workers are paid fair wages and not merely the minimum wages. Fair wages are something less than the living wages which are the ultimate foal, and more than the minimum wages which must be paid in any event. Fair wages which are fixed at a particular time may not remain fair with passage and the price increase and, therefore, a revision in wages is necessary. To a certain extent, this disparity is made up by payment of dearness allowance, but as the Apex Court has consistently taken a view that 100% neutralization is not advisable, it is necessary to sufficiently bridge the gap between the wages and cost of living by revision of the wages as also the dearness allowance. The mere fact that there is an increase in the Consumer Price index, justifies an upward revision.

2. **Transport Corp. of India Ltd. V/s MRMT & G. K. Union, 2002 (3) LLJ 835, the Hon'ble High Court of Bombay** has observed that "14. *The contention of the Learned Counsel for the Petitioners that unless the workman steps into the witness box and leads evidence to justify his demand, it would not be open for the Tribunal to consider any wage increase must also be negative. This is because the mere change in circumstance of the rise in the Consumer Price Index is sufficient to warrant an upward revision in wages. What is the Consumer Price Index prevailing at the time when the demand is raised or when the dispute is referred for adjudication or when Tribunal makes an Award is a matter of record based on the Notifications issued by the Government from time to time. Therefore, the oral evidence of the workman would be of no assistance to prove this fact. Further Balance Sheets and Profit and Loss Accounts which are necessary to show the financial capacity of an Employer are maintained by the Employer and the workman again would not be of no assistance to prove this fact. Further Balance Sheets and Profit and Loss Accounts which are necessary*

to show the financial capacity of an Employer are maintained by the Employer and the workman again would not be able to throw any light on these aspects as the financial capacity is to be assessed by the Tribunal from the record made available to it. This record is to be produced by the Employer if he pleads financial inability to implement the burden of an increased wage structure. The burden of proof to show that he has no financial capacity to withstand the burden imposed upon it would be on the Employer as it is he who knows his financial position and the conclusive proof of that are the Balance Sheets which are normally in his possession. In the instant case, the Tribunal has considered and assessed the financial capacity of the transporters to bear the burden by taking into account the Balance Sheets and the Profit and Loss Accounts of those who had produced them on record. He has rightly drawn adverse inference against those employers who had not cared to produce these documents or to substantiate their claim that they do not have the capacity to withstand financial burden which would be imposed upon them due to the demands. The Tribunal considered the fact that most of the Employers neither appeared nor filed their Balance Sheets and Profit and Loss Accounts or the Statement of Salaries. The statement recording the strength of the employees also was not produced and since all these factors were within the knowledge of the transporters, the Tribunal has drawn an adverse inference and held that the transporters were able to bear the burden".

3. **Hindustan Unilever C/s B. N. Dongre, (1994) 6 SCC 157** wherein the Hon'ble Apex Court has observed that "the concept of Dearness Allowance, the second most important element in a worker's wage-plan next to the basic wage, was introduced during the second World War to meet the increase in the cost of living caused by inflation. It was either linked to the cost of living index or was given by way of flat increases. When linked to the former, it was granted to all the income groups at a flat rate or was graded on a scale admissible to different income groups diminishing with rise in income. Basically, the concept of dearness allowance was designed to combat inflation and protect real wages and therefore it would appear that there should be cent percent neutralization. This is a concept peculiar to India, Ceylon, Pakistan and Bangladesh. The National commission of Labour (1969) recommended 95% neutralization

for minimum wage earners but it was reluctant to recommend the same rate for workers in higher wage groups for fear that it may spark off inflationary trends. Normally, such a Dearness Allowance formula suffers from two drawbacks, (i) it has the pernicious effect of distorting the wage-structure and (ii) it results in a sharp erosion of real income, particularly of those in the higher wage groups. Generally speaking, the distortion of the wage-structure takes place because employees in different pay scales are granted Dearness Allowance not at a uniform rate but at a tapering rate, i.e. the workers in the lower scales getting a higher neutralization as compared to those in the higher pay brackets in whose case the neutralization percentage diminishes with the rise in basic wage. That is because it is believed that those in the higher pay brackets have a cushion to absorb the brunt of inflation".

4. **Transport Corp. of India Ltd. V/s MRMT & G. K. Union, 2002 (3) LLJ 835**, (already cited above) where the first principles have been explained and it has also been held that the Tribunal has the power to even grant demands more than claimed.
5. **Mukand Limited V/s Mukand Staff Association, 2001 (4) LLN 682** wherein the Hon'ble High Court of Bombay has observed that "At the outset, it would be well to have regard to the fact, that industrial adjudication is not an exercise involving a pure mathematical computation. Statistics and figures are undoubtedly important facets of the process of wage fixation but, in the practical application of the region-cum-industry formula, difficulties do arise before the industrial adjudicator. The circumstances relating to two industries within the same region or two establishments within the same industry in the same region, can rarely, if ever, be identical. Each establishment in the industry is bound to have its own peculiar characteristics relating not merely to the nature of its business but, also those relating to its own peculiar industrial relations scenario. The industrial adjudicator cannot throw up his hands in despair when confronted with the problems of adjudication. In making comparisons under the region-cum-industry formula, the adjudicator has to assess the data which has been produced before him. Extrapolation of data is not a mechanical process and any exercise involving the application of date or of making statistical

comparisons has to be conscious of the limitations of the process. Practical experience in these matters would show that there would be some deficiencies in the data and some limitations on applying the norms of comparability. In such a case, it is the sound and robust common sense of the expert adjudicator which must guide the determination. In that determination, the Industrial Tribunal has the benefit of rival submissions which have to be duly considered.

6. **Tata Chemicals V/s Workmen 1978 (3) SCC 42** wherein the Hon'ble Apex Court has observed that *"a bare perusal of the above quoted section would show that whereas a settlement arrived at by agreement between the Employer and the workmen otherwise than in the course of conciliation proceeding is binding only on the Parties to the agreement. The conclusion that a minority Union can validly raise an industrial dispute gains support from Section 2(k) of the Act which does not restrict the ambit of the definition of 'industrial dispute' to a dispute between an employer and a recognized majority Union but takes within its wide sweep, any dispute or difference between Employer and workmen including a minority Union of workmen which is connected with employment or terms of employment or conditions of labour of workmen as well as the observations made by this Court in M/s Sharampal Premchand v/s Shrampal Premchand (Saughandhi) (1) (1975) 3 SCC 613.*
7. *"In Jhagrakhan Collieires (P) Ltd. V/s Shri G. C. Agarwal, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Jabalpur & Ors. (supra) Sarkaria, J. speaking for the Bench observed that "an implied agreement by acquiescence, or by conduct such as acceptance of a benefit under an agreement to which the worker acquiescing or accepting the benefit was not a Party, being outside the purview of the Act, is not binding on such a worker either under sub-section (1) or under sub-section (3) of section 18. It follows, therefore, 'that even if 99% of the workers have impliedly accepted the agreement arrived at by drawing V.D.A. under it, will not-whatever its effect under the general law put an end to the dispute before the Labour Court and make it functus officio under the Act.'" Accordingly, the theory of implied agreement by acquiescence sought to be built up on behalf of the Appellant*

on the basis of the acceptance of the benefits flowing from the agreement even by the workmen who were not signatories to the settlement is of no avail to the Appellant Company and cannot operate as an estoppel against the Sangh or its members."

53. I have perused all the above authorities in deciding the present case and there is no dispute about the settled position of law but the same are of no use to the Party I as the facts of the present case are totally different from the above mentioned cases.

54. The Party II(1) which is the Company has placed on record the Affidavit-in-Evidence of Mrs. Sharmila Nadkarny, working as Asst. General Manager for Tulip Diagnostics (P) Ltd. and she has mentioned in her Affidavit-in-Evidence the detailed facts of the case and has produced documents from Exh. 69 to 84 Colly in support of their case. Her testimony with the support of all these documents establishes and proves the case of the Party II(1). Her cross-examination could not be shaken on any material aspect and throughout she maintained and proved with the documents that all the establishments as mentioned by Party I as divisions are not financially independent and they are altogether the establishments of the same Company i.e. of Tulip Diagnostics (P) Ltd. and Tulip Diagnostics (P) Ltd. has signed the settlement of all its establishments at Verna which is called as 'division' by Party I. That according to her Orchid, Zephyr, Qualpro Diagnostics are not 'divisions' of Tulip Diagnostics (P) Ltd. but they are part and parcel of Tulip Diagnostics (P) Ltd. financially or otherwise and therefore the demand placed on the divisions of Tulip Diagnostics (P) Ltd. is bad in law and needs to be rejected. She has also stated that the Party II(1) has signed a comprehensive settlement with Goa Trade and Commercial Workers Union on their Charter of Demands dated 22/02/2017 which is a majority Union and the said settlement has been signed on 09/08/2017 and accepted by majority Union without any exception by all the establishments of Party II(1) at Verna Industrial Estate.

55. It is pertinent to note that from 2008 onwards the Company has signed 6 Settlements on Charter of Demands with different union i.e. settlement dated 23/02/2008, 24/01/2011, 22/05/2014, 10/06/2014, 09/08/2017 and 22/07/2021 and though Party I was claiming that the Union has membership, at no point of time the Company did sign any settlement with the said Union and the Gomantak Mazdoor Sangh accepted all settlements without any objection in toto.

56. Hence, from her evidence it stands established that they have signed comprehensive settlement with Party II(2) on their Charter of Demands dated 22/02/2017 which is a majority Union and this settlement was signed on 09/08/2017 and accepted by majority Union without any exceptions by all the establishments of Party II(1) at Verna Industrial Estate and they also offered same settlement to the members of Party I but that was rejected by the Party I. It has also come on record that in the settlement signed with Party II(2), the Company has given substantial benefits to all its workmen including the last settlement which was signed on 22/07/2021 and about the loss in the financial position has been accepted by Shri Prakash Naik, the second witness of the Party I.

57. It is also seen that the Party II(1) had signed the said settlements by taking into consideration all the relevant provisions under the Industrial Disputes Act and the principles laid down by the Apex Court and also the financial position and status of the Company to pay and comparable concerns signed the settlements with Party II(2). The Party I Union cannot raise the Charter of Demands as it does not have the majority and the Party II(2) is a majority Union. The arguments advanced by Learned Advocate Shri S. P. Gaonkar for Party I that the Party II(1) Employer never called them for verification or for secret ballot to find out the majority but it is seen that the secret ballot theory is not recognized under the Industrial Disputes Act, 1947 or the Trade Union Act. It is also a settled law that the Party II(1) Company cannot be compared to any pharmaceutical Company as the profits, losses, production capacity of each Company differs from one another and the comparison to be made as prayed and alleged by the Party I Union with Indico Remedies, Geno Pharmaceuticals are not correct and comparable concerns as the payment and emoluments are to be done by having regards to the industry cum region principles and paying capacity of each Company which varies from one another and moreover, the Party II(1) being a private Company has to depend on their own profits and they cannot be compared with the Government departments. The present emoluments given by the Company in the settlement signed with Goa Trade and Commercial Workers' Union has taken care of pay-scales, flat-rise and fitment and as such there is no need for increasing the same which is more evident and clear from the evidence of the Party II(2) Union.

58. It is seen that both the settlements dated 09/08/2017 and 22/07/2021 were offered to all the workmen including the said 19 workmen of Party I

Union but they refused the same. Both these settlements are proper, fair and reasonable having accepted by a vast majority of workmen without any reservations and therefore the demand raised by the said 19 workmen certainly needs to be rejected. The first witness of Party II(1) Company in her cross-examination has clearly stated that their Company manufactures all types of diagnostic products which are different from medical equipments. She has further stated in her cross that at the time of signing both the settlements dated 09/08/2017 and 22/07/2021 both the Parties took care of their respective interests and both the said settlements are reasonable settlements. She has also admitted that in the negotiations the Management was represented by H.R., Finance and Technical Team and the Union was represented by the Workers Committee and the Union leadership and also admitted that both the Parties after much negotiations and discussions signed the settlement at Exh.74.

59. It is seen that the Party I has not led any evidence to show the financial position of the Company, industry cum region, paying capacity and comparable concern. It is seen that the settlements which have been relied upon the Party I Union in no way comparable to the Company and there is nothing on record to show as to how those settlements can be compared with one establishment of the Company. The Party I Union has failed to prove the financial capacity of Tulip Diagnostics (P) Ltd. to pay the workers who have not accepted the settlement dated 09/08/2017 as no Balance Sheets are produced by the Party I Union. Even otherwise the workmen have refused to give the extra productivity which was one of the terms for increase in wage in the 2017 settlement. Since the 19 workers have refused to give more productivity as per clause 19 of the same, it would be unjust to burden the Company with increase in wages. It is also pertinent to note that the minority union has made serious allegations against the Goa Trade and Commercial Workers' Union. According to them the Party II(2) is puppet union and it is not majority Union and unless that issue is decided the Tribunal cannot proceed further.

60. The Party II(1) has signed 5 settlements i.e. settlement dated 23/02/2008, 24/01/2011, 22/05/2014, 10/06/2014 and 09/08/2017 and in all the settlements the Party II(1) has given substantial benefits to all the workmen and settlement dated 22/05/2014 has been accepted by Party I Union in toto without making any allegations. The Party I has not produced any material to show that the workmen have paid membership fees to the Union

for the year 2016. The full Bench of the Bombay High Court in **Air india Employees' Guild V/s Air India Ltd., 2007 II LLJ 2017 (Bom)** has held that the issue as to whether a workman is a member or not has to be decided only on the basis of receipt of payment of subscription for the relevant period. Thus, there is absence of material evidence to show that the demand is espoused by the workmen of the Factory. In the case of **Deepak Industrial, Ltd., and another v/s State of West Bengal (1975) 1 LLJ**, the Hon'ble High Court of Calcutta held that "if the evidence does not establish that the workmen in substantial number by passing appropriate resolution authorize the Union to raise a demand, any demand raised by the Union cannot be said to be a dispute raised on behalf of the workmen of the Employer. In the case of the Bombay **Union of Journalist V/s The Hindu AIR 1963 (SC) 318**, the Apex Court held that without espousal of the demand by substantial number of workmen employed by the Employer (The Hindu), the dispute raised by the Union on behalf of the workmen would neither be a genuine dispute nor an industrial dispute.

61. **The Apex Court in the case of Express Newspaper (Pvt.) Ltd. and Ors. V/s The Union of India & Ors. AIR (1958) SC 578**, the Apex Court set out the principles applicable in fixation of wages. (1) In the fixation of rates of wages which include within its compass the fixation of scales of wages also, the capacity of the industry to pay is one of the essential circumstances to be taken into consideration except in cases of bare subsistence or minimum wage where the Employer is bound to pay the same irrespective of such capacity; (2) The capacity of the industry to pay is to be considered on an industry-cum-region after taking a fair cross section of the industry and (3) the proper measure for gauging the capacity of the industry to pay should take into account the elasticity of demand for the product, the possibility of tightening up the organization so that the industry could pay higher wages without difficulty and the possibility of increase in the efficiency of the lowest paid workers resulting in increase in production considered in conjunction with the elasticity of demand for the increased rate should not be such as to drive the Employer out of business.

62. Learned Adv. Shri Suhaas Naik on behalf of Party II(1) has argued that Party II(2) Union vis-a-vis the documents it is noted as follows:

1. It is seen that the before signing this wage settlement under Section 2(p) read with Section 18(1) of the Industrial Disputes Act,

1947, the Party II (2) Union had placed a Charter of Demands dated 22.02.2017 before the Party II (1) company, After placing the said charter of demands series of bilateral meetings/negotiations/discussions were held between the Management team of Party II(1) company and the workmen/Party II(2) Union and after series of protracted discussions, both Parties finally agreed to settle the said Charter of Demands dated 22/02/2017 by signing a comprehensive wage settlement dated 09/08/2017 under Section 2(p) of the Industrial Disputes Act, 1947.

2. It is seen that after signing this wage settlement bilaterally, the said settlement was then forwarded to the Certifying Authorized Officer of the Labour Department, Government of Goa, for registration of the same and the Office of the Labour Commissioner registered the said settlement under No. 18/2017.
3. It is seen that as per Clause (8) of this settlement, the Privilege Leave is paid as under:
 - (a) It has been agreed between the parties that the existing Privilege Leave of 18 days shall be enhanced to 21 days from April, 2017. It has been also agreed that the Privilege Leave accumulation of 54 days will remain unchanged. It has also been agreed that the privilege leave can be availed for the 5th time in a year only in case of personal emergencies only like hospitalization, death to close family members.
 - (b) It has been agreed by the union that the workmen shall make full efforts to reduce absenteeism, which is mostly seen in the months of October, November and December.
4. It is seen that as per Clause (17) of this settlement, the Medical Allowance is paid as under:
 - (a) It is agreed that Rs. 1,000/- per month, per worker be paid from the month the contribution to the ESIC Scheme is stopped and the employee is out of ESIC. The said payment will be paid annually as Medical Allowance. It has been also agreed between the parties that if the ESIC slab changes and employees fall back into the coverage limit again, the Medical Allowance of Rs. 1,000/- per month, per worker will be stopped and again they will be covered under the ESIC.

- (b) It was agreed that the existing Medclaim coverage of Rs. 50,000/- would be enhanced to Rs. 75,000/- per worker, which includes his family members. The coverage will not cover Maternity benefit in the Policy. The enhanced coverage will be effective from 01/09/2017. However, no arrears shall be paid for any of the past claims from 1st April to 31st August.
- (c) It has been agreed between the parties that the existing annual medical Allowance shall be enhanced by Rs. 500/- from April, 2017.
5. It is seen the besides the above rise the Party II(1) Union has secured an increase in the salary for the 1st year of Rs. 3,250/-; for the 2nd year of Rs. 1,200/-; for the 3rd year of Rs. 1,200/- and for the remaining 6 months of Rs.1,500/- in addition to the Fixed Dearness Allowance (FDA) as mentioned above. The total rise is a Rs. 9,100/- in addition to other liabilities which the Party II(1) company has to pay on Provident Fund Contributions, Gratuity, Bonus, etc.
6. It is seen that this settlement dated 09/08/2017 has been accepted by vast majority of the workmen and at present there is absolute peace and normalcy at the factory of the Party II (1) Union.
7. It is seen that the above settlement expires on September, 2020 and thereafter the Party II Union terminated the said settlement and placed a fresh Charter of Demand dated 30/09/2020 and series of bilateral meetings/negotiations were again held between the management team and the Union team and after series of prolonged and protracted discussions a fresh settlement was again signed on 22/07/2021 for a period of 3 years and 6 months. In this settlement, a direct wage rise of Rs. 11,800/- per month, per worker has been given excluding, statutory liabilities on Provident Fund contributions, Gratuity, Bonus, Shift Allowance, Leave Travel Allowance, etc. in the following manner.
- (a) Rs. 5,800/- per month, per worker salary increase for the 1st year w.e.f. 01/10/2020 to 30/09/2021;
- (b) Rs. 2,500/- per month, per worker salary increase for the 2nd year w.e.f. 01/10/2020 to 30/09/2022;
- (c) Rs. 2,500/- per month, per worker salary increase for the 3rd year w.e.f. 01/10/2022 to 30/09/2023;
- (d) Rs.1,000/- per month, per worker salary increase for the 1st year w.e.f. 01/10/2023 to 31/03/2024;
8. It is seen that the above settlement dated 22/07/2021 has been signed under Section 2(p) read with Section 18(1) of the Industrial disputes Act, 1947 and Rule 58(2) of the (Central) Rules, 1957 in the prescribed manner and the same has been duly registered before the Certifying Officer under Registration No. 09/2020 and such settlements which are fully complied in accordance with the Rule Books are always treated as fair, just and proper settlements as laid down by the various norms and guidelines of Industrial jurisprudence and such settlement are never opened to judicial scrutiny unless the same are proved to be malafide.
9. It is seen that both the above settlements dated 09/08/2017 and 22/07/2021 have been duly accepted by majority of the workmen and there is absolute normalcy prevailing in the Party II(1) company and absolute industrial peace and normalcy is prevailing in the factory of the Party II(1) company and the same cannot be allowed to be disturbed.
- Hence, Issue No. 1, 3 and 4 are answered in the negative.
- Issue No. 2*
63. The Party II has raised objection in the Written Statement that the Party I has no locus standi to rise the dispute or represent the present Party I workmen and, based on these objections issue No. 2 has been framed by placing a burden on the Party I to discharge the same and in order to prove this the Party I Union has to show their connection between the workmen and on whose behalf the dispute has been espoused by and also they have to prove the fact that the workmen/Party I had authorised Shri P. Gaonkar to sign the Claim Statement on their behalf. That, on going through the evidence of Shri P. Gaonkar who is the first witness of the Party I, it is seen that there is no single document produced by him on behalf of the Union to raise the dispute or to represent them in the present case.
64. At the outset, it is seen that he has admitted in cross that he has no produced any documents to show that he is the General Secretary of Gomantak Mazdoor Sangh and that he has signed the Claim Statement. Further, in his crossexamination he has admitted that he has not produced the copy of the Resolution before this Tribunal seeking to raise the

demand on the Management and has admitted that he has not produced the copy of the said Resolution. He has also admitted that he has not produced the Membership Register of the workers/Union but voluntarily has stated that he has produced the names of the list of members. It is pertinent to note here that the document as regards the Membership Register of the workers/Union is totally different from giving the list of members as the document of List of Documents will not be authentic as much as the Membership Register. HE has also admitted further that Exh.25 which is a letter dated 28/11/2016 does not mention anywhere the names of the workers which is as per the names of the Union. Further, it is seen that the letters at Exh. 62-D Colly and 63-D Colly which are signed by about 126 workers and addressed to the General Secretary of the Gomantak Mazdoor Sangh informing that they would like to join GMS, and that they shall abide rules and regulations of the Union and that they authorize the General Secretary of the GMS to represent them before the Management, but to this it is seen that by both these documents the workmen have only stated that they would like to join their Union and nowhere it is mentioned that they have joined the said Union. Therefore, both these letters do not help the Party I to show that the workmen have joined the Party I Union. It is settled law that intention to join is totally a different aspect from actually joining any Union and to prove this, the Union must provide the details of the membership along with the receipts after accepting them in their Union which is admittedly no there in the case. There is no cogent evidence placed on record by the Party I to prove that the said workers were the members of the Union in the year 2016 when the demands were raised and as the Failure Report dated 09/10/2017 at Exh. 35 does not reveal that the General Secretary had furnished to the Dy. Labour Commissioner any documents proving their majority prior to the Failure Report. Hence, there is nothing on record to show that in the year 2016, these workmen were the members of the Party I Union.

65. Moreover, the second witness Shri Prakash Naik in his cross-examination has also admitted that "it is correct that in this matter we have not filed any documents showing the membership of the Gomantak Mazdoor Sangh in connection with the workers" and further stated that "it is correct that the Union had sent only the letter dated 10/08/2017 which is at Exh. 31". "It is correct that with this letter the Union did not enclose any document showing majority of the Gomantak

Mazdoor Sangh". "It is correct that Exh. 32 also does not indicate anywhere in the Failure Report that the list of the majority was filed before the Conciliation Officer". Even otherwise, no document has been produced by the Party I such as any Authority Letter or Resolution by the workmen authorizing the Sangh and Shri P. Gaonkar as its General Secretary to raise the dispute and so also to show that the workmen have joined the Gomantak Mazdoor Sangh. When Shri P. Gaonkar himself has admitted in cross that no such Resolution was passed, in other way it clearly indicates that Shri P. Gaonkar was not even authorised nor he had any locus standi to raise the Charter of Demand dated 28/11/2016 before the Management and therefore to my mind when there was no Resolution passed to raise the Charter of Demands, the said demands which were raised as on 28/11/2016 have to be considered as bad in law.

66. Even otherwise, the Charter of Demands raised on behalf of the Party I does not mention that any of the workers have left the earlier Union and joined the Party I Union after 2014. No membership documents are produced to show that the Party I represented majority and Shri P. Gaonkar did not produce any letters signed by the workers of Tulip Diagnostics Pvt. Ltd. stating that they have left the earlier Union and are joining the Sangh and/or authorizing Shri P. Gaonkar to represent them before the Management or before any other authorities. The Party I has admitted in the Statement of Claim that Bhartiya Kamgar Sangh had signed settlements with Tulip Diagnostics (P) Ltd. and there is nothing on record to show that any of the workers left the earlier Union after 2014 and became the members after 2014.

67. At this juncture I again place reliance on the authority reported in the case of **Sindhu Resettlement Corporation Ltd. and Industrial Tribunal, Gujarat and others (1968) 1 LLJ 834 and in the case of Workmen of Dimakuchi Tea Estate V/s Dimakuchi Tea Estate 1958 SCR 1156** that an industrial dispute as defined must be a dispute between employers and employees, employers and workmen, workmen and workmen and according to Party II(1) since in the case in hand there is nothing to indicate that the workmen has espoused the dispute, it has to be held that Shri. P. Gaonkar had no any authority on behalf of the workmen and that Party I Union has no locus standi to espouse the dispute.

68. Hence, in view of the above reasons and guided by the above authority, it is abundantly clear that Party I has failed to prove the burden on

Issue No. 2 casted on them and accordingly, the same is answered in the negative.

Accordingly, I pass the following Order:

Order

1. The action of the Management of M/s Qualpro Diagnostic Systems, Division of Tulip Diagnostics (P) Limited, Verna Industrial Estate, Verna – Goa in not conceding the following Charter of Demands raised by the Gomantak Mazdoor Sangh vide their letter dated 28/11/2016, is legal and justified.
2. The Party I/Workmen are not entitled for any relief.
3. No Order as to cost.
4. Inform the Government accordingly.

Sd/-

(Bela N. Naik),
Presiding Officer,
Industrial Tribunal
and Labour Court.

Dated: 04/07/2022.

Place: Panaji, Goa.

Department of Personnel

Order

No. 6/78/2011-PER/3551

On the recommendation of the Goa Services Board, Dr. Snehal Naik Goltekar, Special Land Acquisition Officer, Goa State Infrastructure Development Corporation shall also hold the charge of Additional Director of Panchayats-I in addition to his own duties, w.e.f. 01-08-2022 on superannuation of Shri Umakant Korkankar in public interest.

By order and in the name of the Governor of Goa.

Eshant V. Sawant, Under Secretary (Personnel-I).
Porvorim, 15th July, 2022.

Department of Public Health

Order

No. 4/12/2008-II/PHD/Part I/1136

On the recommendation of Goa Public Service Commission conveyed vide their letter No. COM/II/11/30(3)/2022/142 dated 15-06-2022, the Government is pleased to declare the following Physicist in the Department of Radiology as having satisfactorily

completed their probation period of two years and to confirm them in the post of Physicist in the Department of Radiology in Goa Medical College, Bambolim, with effect from the date of completion of their probation period:-

Sr. No.	Name of Officer	Date of completion of probation period
1.	Shri Goraksha Dharmaji Chikale	18-01-2018.
2.	Shri Madusudan Premanand Chatim	16-07-2019.

By order and in the name of the Governor of Goa.

Trupti B. Manerkar, Under Secretary (Health).
Porvorim, 26th July, 2022.

Order

No. 2/10/2021-II/PHD/1152

Government is pleased to accept the resignation dated 17-06-2022 tendered by Dr. Pranav Nagarsenkar, Lecturer, Department of General Surgery, Goa Medical College and he stands relieved w.e.f. 17-07-2022 (a.n.).

By order and in the name of the Governor of Goa.

Trupti B. Manerkar, Under Secretary (Health).
Porvorim, 27th July, 2022.

Department of Skill Development and Entrepreneurship

Directorate of Skill Development and Entrepreneurship

Order

No. DSDE/TRG/Skill Hub Initiative/2021-22/Part file-I/1016

Sub.: Constitution of State Monitoring Committee (SMC) for Skill Hub Initiative (SHI) under PMKVY 3.0

The Skill Hub Initiative (SHI) under Pradhan Mantri Kaushal Vikas Yojana (PMKVY 3.0) has been designed by Ministry of Skill Development & Entrepreneurship, Ministry of Education and other stakeholder Union ministries, for implementation of Skilling Component under National Education Policy (NEP) 2020.

Skill Hub Initiative (SHI) aims at creating shared infrastructure, aligning with the needs of the local economy and addressing the needs of all target

segments for vocational training and developing well-defined pathways for students to continue with their chosen academic-vocational pursuits.

Sanction of the Government is conveyed to constitute the State Monitoring Committee (SMC) at the State level for overseeing the regular functioning of the SHI with participation of stakeholders as per guidelines for Skill Hubs Initiative (SHI) issued by Ministry of Skill Development and Entrepreneurship (MSDE), GoI as under:-

Sr. No.	Details of State Monitoring Committee Members	Roles to be played in SMC
1	2	3
1.	Secretary, Skill Development & Entrepreneurship, Government of Goa	— Chairman.
2.	Director, Directorate of Skill Development & Entrepreneurship	— Member Secretary.
3.	Dy. Director of Education, Directorate of Education	— Member.
4.	Director, Directorate of Higher Education or his representative	— Member.
5.	Assistant Director (Polytechnic), Directorate of Technical Education	— Member.
6.	Director, Department of Rural Development	— Member.
7.	Dy. Director (Admin), Directorate of Panchayat	— Member.
8.	Chairman of District Skill Committee-North Goa or his Representative	— Member.
9.	Chairman of District Skill Committee-South Goa or his Representative	— Member.
10.	Assistant Director (TRG), Directorate of Skill Development & Entrepreneurship (handling PMKVY Scheme)	— Member.

Mandate of State Monitoring Committee (SMC) shall be as under:

- To act as joint monitoring Committee for overseeing the regular functioning of the "Skill Hubs Pilot", recommending to Steering Committee any policy or operational corrections for improving its implementation, reviewing, and approving of proposals in

accordance with the guidelines or any other functions as deemed necessary by Steering Committee.

- The State Monitoring Committee shall refer the Guidelines of the Skill Hubs Initiative (SHI) pilot and shall adhere to the PMKVY 3.0 Guidelines. In case of any deviation from PMKVY 3.0 guidelines, the State Monitoring Committee shall examine the same and place it before the Steering Committee for final approval.
- Periodic review of allocated training targets to all types of identified Skill Hubs within the State.

The State Monitoring Committee (SMC) shall meet as and when required or atleast once in six months. Further, if any non-official member is nominated by Chairman of District Skill Committee as representative of District Skill Committee on State Monitoring Committee (SMC), then such member shall be entitled for remuneration of Rs. 1,500/- per sitting of the SMC.

This issues with the approval of the Government.

By order and in the name of the Governor of Goa.

Dipak Desai, Director & ex officio Additional Secretary (Skill Development & Entrepreneurship).

Panaji, 12th July, 2022.

Department of Urban Development
(Municipal Administration)

Office of the Minister for Urban Development

Standing Order

No. 11/58/2019/DMA/Cases/2200

In pursuance of Rule 17 of the Rules of Business of the Government of Goa, 1991, I, Shri Vishwajit P. Rane, Minister for Urban Development, Government of Goa, hereby withdraw the Standing order No. 11/58/2019/DMA/Cases/2552 dated 7th November, 2019 published in the Official Gazette, Series II No. 33 dated 14th November, 2019.

This Standing order shall come into force with immediate effect.

Vishwajit P. Rane, Hon'ble Minister for Urban Development.

Porvorim, 26th July, 2022.

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